

ORAL HISTORY INTERVIEW

CLYDE BERNARD "BERNIE" FOWLER

**COUNTY COMMISSIONER
MARYLAND STATE SENATOR
ENVIRONMENTAL LEADER**

ENVIRONMENTAL ISSUES IN CALVERT COUNTY

INTERVIEW BY

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RECRUITING FOR CHESAPEAKE BAY COMMISSION	Page 3
BEGINNING OF POLITICAL CAREER	Page 6
DON HEINLE & CHESAPEAKE BIOLOGICAL LABORATORY	Page 8
CHANGES IN THE PATUXENT RIVER	Page 10
A CAMPAIGN TO CLEAN UP THE PATUXENT	Page 11
LAW SUITS AGAINST EPA AND THE STATE OF MARYLAND	Page 15
CONNECTING WITH GOVERNOR HARRY HUGHES	Page 20
THE PATUXENT RIVER CHARETTE	Page 24
THE ANNUAL PATUXENT RIVER WADE-IN	Page 29
THE CHESAPEAKE BAY COMMISSION	Page 34
LAW SUIT WITH CHESAPEAKE BAY FOUNDATION	Page 35
THE FUTURE	Page 36

Walter Boynton: My name's Walter Boynton and I'm an ecologist. I work at the Chesapeake Biological Lab in Solomons, and that's part of the University of Maryland. I first came to the lab in 1969. I was a summer student, and I thought, "I'm going to be a marine biologist!" Actually, when I got there, I found out that what they wanted me to do was to run the Xerox machine. My earliest days in marine science were getting books out of the library and Xeroxing articles. To a certain extent, it's been uphill since then.

I went off to graduate school after a bit at CBL, and as the fates would have it, when I finished at the University of Florida, I was offered a job at CBL. My wife and I looked at each other and said, "You know what? We met there. We went a-courting on the big pier in front of CBL. We had a good time. Let's go back." We went back to the lab in 1975, and we have been here ever since. I expect we'll finish our days out here.

I think I was at CBL for a very short time when I met Bernie Fowler. When I first got back there, there were issues emerging about water quality in the Chesapeake Bay. Actually, more than just water quality: issues about the habitat, the loss of the sea grasses, changes in the fisheries, the decline of oysters. There were people like Bernie, I wish there more of them, who were asking questions about what's going on. I don't know if it's just me and my personality, but I thought that being able to take some of this scientific stuff, which often can be pretty technical, translate it, and talk to someone like Bernie about it, was useful, it was exciting at times, and it was also pretty scary at times. Up to this day, I still think it's a good thing to do.

One of the rules, one the lessons I learned from Bernie, and I try to apply this in my science stuff, is that you need to tell all the different groups the same story. You've got to tell them the same story. Sometimes people will clap, and other times, people really don't want to hear that, but it's, I think, something that Bernie gave to me, was this business about tell them the same story. We've been working together, I guess, for, let me count them out ... '75, '85, '95, '05 ... it'll be 40 years next year. That's a long time. Every minute I've involved with him has been worthwhile. I'm glad to be here.

RECRUITING FOR CHESAPEAKE BAY COMMISSION

Bernie Fowler: One of the most embarrassing times in my life ... Mike Miller said, he and Clay Mitchell at the time, they wanted to replace Jack Witten, because Jack had kind of wore his welcome out on Chesapeake Bay Commission. I was in the Senate then and was a member of the Chesapeake Bay Commission. "Would you find us a good candidate?" I said, "I really will, I'll try my best." The first person who came to mind was Dr. (Eugene) Cronin. I called him on home, at his house, he had left the laboratory today, at the house.

He went to Boston with me one time, you know, when we was fighting over Molly's Leg (small island near Solomons Island) down there, and they were holding it up, some environmental agency or something, EPA or somebody. So we flew to Boston. Cronin went with me. We flew to Boston to talk to a friend of his who was field director they took in this area. All I did was try and introduce myself, and we chatted for a little bit, but Cronin, they were bosom buddies, they must have went to school or something. He said, "Oh, I'll take care of that for you." Next thing I know, the was freed up. We got to be friends, talking, coming back, and I said, "Are you pretty much resolved to full retirement now?" He said, "Bernie, I'd really like to continue doing some things. I don't know what that'd be, but my affection is really in the Bay, and the rivers, and all."

I called him at home. "Dr. Cronin, this is Bernie Fowler." He said, "How you doing?" I said, "I'm doing fine. Look, I don't want to embarrass myself by asking you this, but we need a good person on the Chesapeake Bay Commission. Is there any chance that you could find time? You know, they pay your transportation, and all, food and everything. Is there any way you could find time? I know this is a burden for you." He shot right back, he said, "Oh, I'd love to do it for you. I'll do it for you."

I go back to Mr. Miller and Mr. Mitchell, and I say, "I got you one. Couldn't get a better one." I said, "Dr. Cronin, that was executive director of the Chesapeake Biological Lab." "Oh, yeah," Mitchell said, "I know him well. Yeah." I said, "Well, he's a smart man, and he really knows the Bay. You couldn't get a better choice."

Then, a week later, they called me on the phone and said, "Dr. Cronin's not acceptable for the appointment." Now, I got to call him. I tell him, I said, "I'm almost in tears, I'm so embarrassed, but somebody up there, for some reason or another, don't feel like you belong on the Chesapeake

Bay Commission. I don't have the foggiest notion who." I found out it was Clay Mitchell. He said, "Bernie, don't feel bad about it. I'm not surprised."

I got another call from Mike. He said, "Can you try one more time?" I said, "Yeah, I'll try one more time. I want to see somebody on it that's going to be a good contributing member." I said, "Well, you know, I'll call Harry Hughes. He and I got along good. He won't do it, but at least I'll call him." Called him, I swear, I didn't say 10 words, and he said, "Bernie, what do you want?" I said, "What I want you probably won't want to do. I want you to be a member of the Chesapeake Bay Commission. We really need somebody like you." He said same thing Dr. Cronin said, "I'll do it for you, Bernie." Oh, man. I'm in hog heaven. No way they'll turn Harry Hughes down.

I go back to him. "Harry Hughes is willing to serve, and it's going to be hard for you to turn him down." "Okay, we'll let you know in a couple of days." Got another phone call. They wouldn't take him. I said, "My God, I can't ... well look, you forget it. I'm out of it now. I'm out of it. Don't bother." They held that open because they knew that I was going to retire from the Senate. They held that open for 6 months. After I retired, soon as I left the Senate, I got a call from Mike, "Clay Mitchell and I really want you to serve on the Chesapeake Bay Commission as a citizen representative."

Walter Boynton: Why did they send you off on these recruiting missions?

Bernie Fowler: They were sincere. They trusted me that I'd bring people in that would have the kind of stature and equipment to do the job, but for some reason or other, I don't think Mike liked Harry Hughes, and I don't think Clay Mitchell liked Dr. Cronin, for whatever the reason. That was Eastern Shore. Can you imagine turning two tycoons down like that? Oh, my, what contributors they would have been.

Michael Fincham: Yeah. No reason was ever given for those rejections?

Bernie Fowler: No, they didn't give me ... I asked them, I said, "Could you tell me why?" Mike told me, he said, "Well, it's something personal. He and Clay ... I don't know what it is, Bernie, I really don't know. I don't think Clay will tell you if you ask him." I didn't bother to ask him. I went back to Mike, and I says, "Harry Hughes?" He said, "Well, Harry's had his day in the sun." I says, "Yeah, but he's so valuable." I'd figured it was Mike that knocked Harry Hughes off. Man, I was so embarrassed when I had to call him back, "Governor, I don't know how to tell you this, but they've turned you down over there."

Michael Fincham: You think they thought he'd be too strong? I mean, an ex-Governor, he could carry a fair amount ...

Bernie Fowler: Well, they may have figured, like I use the expression sometimes, like the flyswatter sitting among the flies. It might have been that, but he was so humble and so genuine. I've worked with him, since we both ...

Walter Boynton: Hughes?

Michael Fincham: I met him in some event that we filmed.

Walter Boynton: He was just a cool guy.

Bernie Fowler: Oh, he was super.

Michael Fincham: I ran into him at Camden Yards, he was standing in line to get a hot dog.

Walter Boynton: He was, well, still is such a genuine person. How did he get to be governor?

Bernie Fowler: He's the only Governor would look at you and say, "I'll do it," or "No, I can't do it," and that was it. O'Malley strung me along for, I guess, six years when I tried to get him to use the Patuxent, you're familiar with that, the Patuxent (River) as a laboratory.

Walter Boynton: We made a couple of trips.

Bernie Fowler: Oh, yeah. He finally wrote me that letter, which you saw, and helped me frame another letter to send back to him.

Walter Boynton: Did you ever get any response to that letter?

Bernie Fowler: Never did. I did get a chance to tell him he was still wrong. I said, "Governor, you're still wrong over here."

Walter Boynton: Good for you.

Bernie Fowler: I put my arm around him and said, "I love you, but you're still wrong on that, I'm telling you." He said ...

Walter Boynton: Well, he was really wrong, because I thought that the Governor took a real cheap shot by saying we can't cater to the desires of one person and one river...

Bernie Fowler: Yeah.

Walter Boynton: ... and completely ignored the fact that, I mean you can hardly the Chesapeake Bay Commission involved with that program for a zillion years.

Bernie Fowler: Really. I really first got started in 1969, that's 45 years ago. Today ...

Walter Boynton: Should we start this interview, Michael?

Michael Fincham: I'm recording. I've been recording.

Walter Boynton: Huh?

Michael Fincham: I've been recording.

Walter Boynton: Oh, you have? Bernie, this is a question I want an answer to.

Bernie Fowler: Okay.

BEGINNING OF POLITICAL CAREER

Walter Boynton: All right. When did you first get interested in environmental issues? Was it before or after your service in World War II? In other words, when you were really young, were you interested in environmental stuff?

Bernie Fowler: No, because I was free foot and fancy free, and I was kind of naïve, and really didn't think we had any kind of a resource that was expendable. I just thought this is the way life is, you know, never paid it any mind. It wasn't until 1969, after operating Bernie's Boats at Broomes Island for a number of years, and after my family started to grow, I decided I wanted to get away from working on the Sabbath. I sold the place, made a few dollars on it, it was going good at that time. Then, when I'd go back to crab and all that, I'd see the water was starting to get a little cloudy. This was in the late '60s.

It was really in '69, when I made my first appeal. I was President of the Prince Frederick PTA at the time. In my final remarks, I said, "I've got a little something I want to let you people know about. It may not come as a surprise to you, but I am deeply concerned about the water quality in the Chesapeake Bay and its tributaries, and Patuxent River in particular. I grew up on that river, I worked that river, my parents worked that river, my grandparents worked that river. We've got problems coming up, and I just want to put that bug in your ear so that you'll know there's

something wrong out there on the river. The way the river goes, the Bay's going to go the same way." That was back in ... I was president of the PTA in Prince Frederick, and also president of the Board of Education at the time, so I had some ears that I could talk to.

Walter Boynton: You had already started ... those were appointed offices, right?

Bernie Fowler: That was appointed in those days, yeah. It was for six years.

Walter Boynton: When you started your elected political career, were environmental issues a big part of that effort?

Bernie Fowler: Oh, yeah.

Walter Boynton: When did that occur? When were you first elected to the . . .

Bernie Fowler: I campaigned in 1970. Made up my mind in 1969, that was my last year to serve on the Board, and I wrote a letter to the Governor's office and told him I did not wish to be re-appointed to the Board of Education, I had other public plans. I didn't tell him I was going to run for County Commissioner, I had other public plans, and very grateful for the opportunity, it's been a great experience. Then I began to create a little corn pone campaign for County Commissioner. We spent a total sum of \$152 to get elected. My family was small, we had them all dressed up in sporty hats and everything, and "Vote for my dad," and they had banners on, you know. We'd go into the Drum Point Ranch Club in Solomons.

Had an old Chrysler, and we'd drive along in that Chrysler, and they'd be walking slowly beside the car. They'd knock on doors, and while I'm going to this door, they'd go to another door and knock. People would be waiting for me when I got there. I'd just give them a little spiel that, you know, "My name is Bernie Fowler." "I know who you are, Bernie," some of them would say, and some of them didn't know me from Adam. I'd say, "I have some concerns, and I'm sincere about this. I want this job. I want this job because I think I can make a difference in Calvert County. I'm going to run hard for it. I want you to take a look at me, remember me, and please remember me in November, when we get to the election." That's how it got going.

Walter Boynton: That is amazing. When you started this ... I should tell you that, you know that I've done a whole lot of reviewing of work on the Patuxent River. Your view in 1969, of something is going wrong here, was within about 5, maybe even just 4 years of when scientific measurements first emerged

that things are really changing here. Your personal observations fit with the science pretty doggone well, so congratulations.

Bernie Fowler: It's just like a member of your family. You know, if one of them get a little sick, they're sluggish, you feel their forehead, they got a little temperature. "Well, something's wrong with Bernie today," or "Something's wrong with Mona today." That's the way the river was with me, because I knew every inch of that river, and I knew there was something wrong. All of a sudden, you can't see the bottom, the water's getting cloudy, that grass that we hated because it would tie your engines up and all was disappearing.

I talked to some of the older water men, and they said, "Well, it's probably going through a cycle, it'll be all right, Bernie." I say, "I don't know, I'm not so sure about it, because the abolition of the grasses and the transparency of the water, it's so strange. This used to be so clear, and you could see so good." That's when I really felt in my heart and mind that something was wrong, but I didn't have the foggiest notion.

DON HEINLE AND THE CHESAPEAKE BIOLOGICAL LABORATORY

Walter Boynton: That leads me to the next thing, is: tell me about when you first met some folks at CBL.

Bernie Fowler: Oh, I don't know. Our Heavenly Father kind of sets a road map, and has for my life, because we were invited to play ball by the guys down at Chesapeake Lab. We went down to the old BG&E Field, played ball, had a good time. I think we won the game, but that was unimportant. It was the fellowship. While doing so, I was able to talk with a number of the scientists. And one that was very outspoken and seemed like he was really hungry to talk to me, because the papers had picked up on some of the comments I had made, and people knew that I was growling a little bit about it.

Called me aside, and he told me, he says, "Look, you're right on target. Things are changing out there." He began to talk about eutrophication, all that, it was all over my head. I said, "Now, you got to understand one thing, Don. I am not a scientist. I don't have a strong biological background, so you got to make this simple so I understand you." His name was Don Heinle, who was a brilliant mind. He knew the elements involved in the demise of the water quality, he knew how to articulate it, and he had the courage of his conviction that he would refuse to be pushed around or throttled. He knew the dangers of not cleaning up the Chesapeake Bay.

At that ball game, we got very acquainted. He told me then, he said, "I'll be willing to help in any way I can. I like what you're doing, and what you're doing, I can't do, but I can provide you with all the information you need to keep you rolling." Don Heinle made some very strong statements, and I used them. I quoted him. There was a time when, even in his family, the University of Maryland was putting pressure on him to be less vocal, because they were getting instructions from higher-ups, but Don Heinle would not waver. I don't mean that he was mean-spirited, he was just committed to what he believed and knew was right.

That's the problem we have in the world today. If everybody would just do what's right, that's the right thing to do, the world would be better off. Don Heinle was one of those people. He believed in doing what was right. He knew what was wrong with the river, he knew what needed to be done to clean that river up, and so whenever he told me something, that was my marching orders. I never questioned any. Then, I began to get little tidbits back from people on the inside that were putting pressure on him, they wanted him to make things sound a little better than they really did. That's still happening, incidentally, today. I won't name any names, but that's still happening today, it's going on.

Don stuck to his guns, and there came a time, when it just reached a point where, because they obstructed some, I think, worthy promotions he should have had. He didn't get them. He finally packed his bags and went out to the west coast.

Sadly, that's where he died. When they called and told me that he had passed away, it kind of cracked my heart, because he's a man like Walter Boynton that I have impeccable faith in, and know that their minds and their heart are clean, and they don't know how to spell unselfishness, they don't know what means, because ... I mean, selfishness. They do what they know is right, and that's what all the world ought to be doing. Unfortunately, it's not taking place. Don passed on, and I remember at one of the wade-ins, we did a memorial service for him, which we have for several people. I still have the wreath up in the shed up there, and have the remarks that I made at that occasion.

We became fast friends. He and Joe Mihursky, George Krantz, who was the oyster expert from over in Oxford, we got to be good friends. That was the beginning of a friendship that has meant so much to me, but more than that, has meant so much to the whole Bay movement. The absence of having that connection and that humongous bank of resource and knowledge from these smart scientists ... they were so factual. They were so factual sometimes they'd make me mad, because I wanted a yes

or a no, and sometimes they couldn't give you a yes or no ... but they were good friends, and stuck with me all the way. They have still, you yourself, Walter Boynton, have been a real jewel. You've never, ever slackened, you say what you think is right, you stand up for it, and you've kept me well-informed and helped me on many occasions. I am not ungrateful for it, I can tell you that.

That was the beginning of my friendship with Chesapeake Biological Lab. I always, privately and publicly, let people know: one of the greatest things that happened in favor of the Chesapeake Bay was when Dr. Reginald Truitt, a very stubborn man, but a very bright man, decided he wanted to open up a laboratory down in Solomons. That was the beginning of something real nice. Rest his soul, he deserves the rest, but that was the benchmark. That was the genesis, really, of bringing together some data so that you had some factual stuff to work with. The education that they gave me down there, like I told you earlier, I couldn't spell eutrophication when I first started, after they finished with me, I could talk science with the most of them, you know.

CHANGES IN THE PATUXENT RIVER

Walter Boynton: Yes. That's absolutely true. Your first sense of things changing in the river were: sea grasses were going away, the water was getting cloudy. Were there any indications that people were catching fewer crabs, or fewer oysters, or were they ... you know, there used to be a lot of shore seiners. (Were you seeing a decline in those activities, because ...

Bernie Fowler: Yes.

Walter Boynton: ... people weren't catching things?

Bernie Fowler: We were seeing a decline in aquatic life, and as a testimony to that, there was a lady named Dixie Buck at Broomes Island. I always called her the champion of the Patuxent River, because she could catch soft crabs when nobody else could. She had the record down there, I think it should be in the Guinness Book of Records, really. She caught 25 dozen soft-shell crabs in one day by herself, crabbing both tides, and she told them for a penny apiece, 12 cents a dozen. That was the going price for them. They were so plentiful that if they couldn't sell them, they slopped the hogs, that's what they fed the hogs, were soft-shell crabs. Nice pan of soft-shell crabs. She told me, I remember so distinctly, she said to me, "Bernie, I appreciate what you're doing. I hope you're not too late. Something's wrong. This water's getting cloudy, you cannot see. I don't

know what it is. I have to pick my spots to crab in, there's some areas you can't even crab. I'm crabbing in mud streaks now."

That was foreign to me. I said, "Dixie, what is a mud streak?" She said, "Well, what you do when you're crabbing in Nan's Cove, and that's all mud bottom, there's a lot of crabs in there. When a crab hears or sees a boat coming, they'll go offshore. When they go offshore, you can't see the crab, but you can see the mud that that crab's stirring up, and you dip in front of that mud streak. That's how you catch the crab." They had techniques, but that's an indication of the changes that were transitioning at that time.

A CAMPAIGN TO CLEAN UP THE PATUXENT

Walter Boynton: What was the first political action, relative to the environment, that you instigated when you were on the Board of County Commissions? Was it the ... and all three Maryland counties were involved, weren't they?

Bernie Fowler: Calvert, Charles, and Saint Mary's.

Walter Boynton: Who was on the Board in Calvert County?

Bernie Fowler: In Calvert County, there was a 3-member board at that time. It was Dr. George Weems from the First District, myself from the Second District, and Gordon Truman from the Third District, he lived in Saint Leonard's. They were good Commissioners, and they, for the most part, were very amenable to environmental considerations, Dr. Weems in particular. I had suggested to them that things were not right in the Patuxent River, and I think we ought to start sounding the alarm, because we're going to be really affected. In doing so, it just might garner up support from some of the regulators in the Governor's office.

Subsequent to that, we met for the first time with Tri-County Council. They went out on the Governor's yacht, I think it was in Maryland then, Governor Mandel. That's when we got acquainted with the retiring commissioners from the 3 counties, and they got a chance to meet the new commissioners coming on board. That was in early 1971. It was a pleasant trip, they had some real standard bearers on there, but they were totally oblivious to the kind of anxiety was building up in me because of the deterioration of the river.

I broke it to them on that first trip, that I want you all to keep one thing in mind: our water quality, and our tributaries, is beginning to go downhill. That's not good for anybody. It's not good for our oystermen, it's not

good for our crabbers, it's not good for our fishermen, not good for recreation, and it will not be good for your children. There will come a time, if we don't do something about it, it may be where they can't even swim in it. I sounded the alarm pretty early. Didn't get much feedback at that time, didn't expect to. I just wanted to sow the seed, and I got that job done.

Then my good friend Tom Rymer, he's been my friend since way back when, when he was a delegate. All during my public career, Tom was always very helpful. I'd counsel with him time and time again. Became a judge, that didn't bother him, he was a judge, I could still sit and talk with him, asked him questions. Tom Rymer was a very bright man. He had 2 degrees. He graduated from Cornell, which, you know, you've got to have a little bit of something between the ears to get out of there. He had a degree in engineering, and he soon decided that was not going to be his forte, so he decided to go back, go to law school. So he did, and he turned out to be a fine practicing attorney. Ultimately, as you and I know, he became a circuit court judge and a very good one. Right now, he's slowed down quite a bit. His recall is not what it used to be, but his heart and his head is still involved in the good things in life, the important things in life.

Walter Boynton: How does this play into this early discussion where the Commissioners from all 3 southern Maryland counties? How does that play into the Pleasant Peninsula Plan? Was that before or after that?

Bernie Fowler: That was after that. What happened, Judge Rymer and I used to have little informal conversations. Finally, he says, "You know what I'm going to do? I'm chairman of the Tri-County Council. I'm going to appoint a Natural Resources Committee, and I'm going to make you chairman of it. That will be your ... you do the head-hunting on that one, but I think you're on fire for it, so you go ahead. You've got free reign. Do whatever you need to do. We'll pay for it."

I became the chairman of the first Natural Resources Committee ever of the Tri-County Council. I collected all of it myself pretty good. By that time, now, we've made friends with Chesapeake Biological Lab, and now they're beginning to educate this old Broomes Island country boy, you know, in a scientific way, so that I understood the transparency: here's why it's happening the way it is, this is why the grass is leaving, I could explain the reduction of the nutrients and all. That's how it got started.

I chaired that committee. I chaired that committee with a determination that we're going to find out what was wrong with that river, and how we

could fix that river. The Chesapeake Biological Laboratory was right behind us, it's like I was a member of the group, you know, part of the family. I remember, years later, I don't remember all of the details of this, it was meeting, after meeting, after meeting, after meeting. I'd button-hole every one of them, and talk to them one-on-one. We had a big meeting over at Shorter's Restaurant at Benedict.

Walter Boynton: I was going to ask you about that meeting, so I'm glad you're talking about it.

Bernie Fowler: I guess I'm ahead of you a little bit.

Walter Boynton: No, you're right on track.

Bernie Fowler: We had that big meeting. I had written out an outline of things that I wanted to say, and it was a very passionate speech. In fact, I had several of the members ... Commissioner Arnold pulled his handkerchief out while I was talking, and I seen him go. He told me later, he says, "You made me cry tonight." I was really pleading, because the river's dying, here's why it's dying. I could give them, now, because of the effective instruction I had from Chesapeake Biological Laboratory, I could give them some facts and give them some reasons for it all happening.

Now we're up into the '70s. Everything went along good, and that night, my final part of the speech, I've got it around here somewhere. There's a tape of it, you can hardly make it out, because whoever taped it was too far from me. Tom Horton tried to interpret it one time, and he was unable to get all of it. It got headlines in the papers, both papers at that time, even the Calvert Independent that never wrote anything about a Democrat. It was a Republican paper. If it was, it was bad, but they said, "Kudos to Bernie Fowler," you know, and they had a nice article about this speech I made over at ... I've got copies of all that stuff, and my news clips. I simply told them, "The river's dying. Make no mistake."

We'd been to see the Governor at that time, Governor Mandel. "Bernie, there's nothing wrong with it." I talked to Jim Coulter all the time, Jim Coulter was secretary at the Department of Natural Resources, talked to him all the time. "There's nothing wrong with Patuxent River. Absolutely nothing wrong. It's as healthy as it can be. The Bay is healthy. What you're doing, the dialogue you're having down there, you're going to be chasing tourists away from Southern Maryland. They won't come to the Chesapeake Bay. They won't go out there if they think there's something wrong with the Bay." I said, "Well, that's still not an excuse for me not to tell the truth, Governor. Have to be honest with you. There is something

wrong with the Bay. I know there's something wrong with the Bay, regardless of what Mr. Coulter's telling you."

We have worked with all of them, and they all tell me the same thing. We talked with the Governor, Governor Mandel, and he: "Nothing wrong with the bay." We talked to Jim Coulter. If you don't have this environmental jargon, you know, against the Patuxent River and against the Chesapeake Bay ... we're doing things now that's going to get more hookups, people off septic tanks. Get them into wastewater treatment plant. I kind of figured then that things weren't quite kosher in camp, but we got very little help.

Went to the Attorney General, who was Mr. Burch at the time. Patted me on the back. "We'll get some things straight for you." It never happened. They may have fined somebody for a little something, but nothing significant that would change the tide of the course of events for the Patuxent River. You know, when you have something in your head, it's one thing. But when that transmits to your heart, and at night when you go to bed, you think about it, when you wake up in the morning, you think about, it's hard not to do something about it. We were on a roll.

After finishing that speech at Shorter's that night, I finally told them, I said, "We can do one of two things: we can put up a nice monument recognizing the good this river has been, and the tide's going to ebb and flow twice in 24 hours irregardless of what we do. If the river gets so thick that you can walk on it, it's still going to ebb and flow. Nature's going to make it do that. But we're losing the river, and it's not too distant. We're going to lose the river." I had a lot of the facts I had got from CBL that I quoted, and after sort of a tear-jerky speech, I finally told him, "The river's dying. We can put up this monument, thank the river for all the good things it's done for us and close the books, or we can come together, the way I think we should, as a trio of counties, 3 Southern Maryland counties, put up taxpayers' money. This is for the citizens and I'm not afraid to spend the money for a great cause. Let's find a good team of environmental attorneys and see if there's any recourse whatsoever that we'll find in the courts." With that in mind, they agreed. That's the night that Senator Bailey ...

Cut. I got a sneeze coming on. Every once in a while ... come on ... there it goes. That's better. Thank you.

Senator Bailey was at that meeting at Shorter's. When I said, "And the second thing is, we need to find a good environmental attorney, pay him what he needs, and give him instructions to look hard to see if we have

any recourse in the courts at all. Then, if that's negative, we've done all we can do at this point. We'll have to come up with another plan. That's my strong recommendation." Old Senator Bailey's tough, I can see him now, rest his soul, he said, "Commissioner Fowler's right. You're going to get nowhere till you sue the bastards." That became a buzzword all over the area, then.

Walter Boynton: Senator Bailey was from Saint Mary's, too.

Bernie Fowler: Senator Bailey was from Saint Mary's, and he was a real legend up in the state house. He and Senator Hall served together. They were a great team, but Bailey was a very lovable person. He was renowned musician, played the clarinet, and he'd take that clarinet wherever he went. All you had to do was say, "You going to play for us tonight, Paul?", and he'd get that old clarinet out and start playing away. Kind of like Harry Hughes and his trumpets, you know? He played the trumpet for us all the time.

LAW SUITS AGAINST EPA AND STATE OF MARYLAND

Walter Boynton: The County Commission is in Saint Mary's County, not the state senators' but the County Commissions in Saint Mary's and Charles, you were able to bring them on board?

Bernie Fowler: Bring them on board. We tried to bring the whole Tri-County Council, and then the attorney that we hired ... we hired the attorney after that.

Walter Boynton: That was Dave Fleischaker?

Bernie Fowler: David Fleischaker, yeah, you got it. Little guy, about so tall, red hair. Smart as a whip, but he looked like ... oh, my.

Walter Boynton: He looked like he was in high school.

Bernie Fowler: Oh, my ... but he was so good. We had planned to use the whole Tri-County Council. Then he picked up on it real quickly, he said, "I've researched the article on that, and you can't. A sister agency can't sue the state." Okay. He said, "But if the three boards of County Commissioners want to come together in a cohesive way, you can do it. You're elected officials, and the Governor didn't appoint you. You are elected officials. You can do it." That's what we did.

I remember the team at work, with George Aud. At that time, Saint Mary's had 5 Commissioners. They were the first on board for 5 commissioners. I talked with George, and I told him, "George, you've

heard me sermonize about the Patuxent River. What's your take on it?" He said, "Oh, I'm four square behind you." I said, "Are you okay on this suit?" "Absolutely. Absolutely." He said, "I've been thinking about something. Charles County doesn't have much on the Patuxent River. It's just around Benedict over there, just got a few miles. I think that Calvert and Saint Mary's ought to pay the lion's share of that."

We worked out a formula, and I think it was 40, 40, and 20. 40 percent for the 2 large counties, I mean for the counties that was most affected, and Charles County was 20 percent. They paid their dues, just like everybody else. We paid all the expenses out of the taxpayers' money.

Walter Boynton: Gary Hodge, was he the executive director of the Tri-County Council?

Bernie Fowler: Initially, he wasn't then. The initial was John Mills, big, tall guy, and he was so educated that he talked ... you couldn't half understand what he was talking about, because he was way up here in his conversation. Lovable guy, but I guess country boys like plain talk, you know, and straightforward stuff. Gary Hodge, when he came on, was a real asset, but the fight had been ongoing then. In fact, Gary wrote a summary from some paper or magazine, I've got a copy of that, it's a well-done article. Got a picture of you and I in there ...

Walter Boynton: Must have been a great article, then.

Bernie Fowler: Oh, it was, yeah. Absolutely. It was really good stuff that he wrote, and it was absolutely factual. He wasn't wrong on one tittle in it. Gary was a good person for the river, because he thought like we did, and was really on fire for it. We only had one person that was a little bit persnickety about it, I won't mention her name. I heard her, the night that I was bringing it up to a vote, she had long fingernails, and I could hear her fingernails on the table, going like this, you know? I heard her say, she didn't think I heard her, she said, "Look. I like Bernie Fowler, but he's not going to tell me what to do." I said, "Well, if I don't get her vote, that won't be the worst thing ever happened."

When they finally took the vote, it was unanimous. Everybody voted for it. All the Commissioners in Charles, all the Commissioners in Saint Mary's, and all the Commissioners in Calvert County voted for it, 100%. From there on out, we had a license, then, to full speed ahead. That's exactly what we told Mr. Fleischaker to do. Go ahead, don't worry about the cost, we want to find out. This is Custer's last stand. If we're not able to do something in the court, we're not going to get anything done.

The Tri-County Council was one of the things that Governor Tawes promised when he took slot machines out of Southern Maryland. Taking the slot machines out, that was a life blood for down here those days, because there was just all kinds of money coming in from Washington and all points north, you know? A lot of local people played them. It was money floating all over the place, and they pretty much run the roost, you know? Ruled the roost. The Tri-County Council was one of several things that Governor Tawes promised that he would do, and the abolishment of slot machines, because he knew that it was going to be a real economic hardship for Southern Maryland. He promised the Governor Thomas Johnson bridge ... the Benedict bridge, I think, had been built at that time, that was one of Louis Goldstein's projects, and he also promised to finish the construction of Route 4 from Huntingtown all the way to Solomons, plus this regional type of thing, you know, a committee, commission.

It turned out to be the Tri-County Council. That was all of the elected officials in the County Commissioner's office, and in Annapolis, the senators and delegates were all a part of that. At first, it was a little ... I wouldn't say difficult, but there was a lot of uncertainties about it, because initially, when they put the legislation together, each one of the senators and each one of the delegates had a full vote on the commission. When you took the county commissioners, the Board of County Commissioners only had one vote. We didn't have 3 votes, and we didn't like that. My good friend, Jim Simpson, Senator Simpson he turned out to be, he was president of the County Commissioners in Charles County at the time, suggested to me one time, and several others standing around, it's unfair for them to have a full vote. We're local government, we're charged with the executive and legislative duties in the counties, and yet we only have one vote for all of us, all three commissioners. In Saint Mary's county, it was one vote for five commissioners.

We just simply said at a meeting, "If you want this council to succeed, you're going to have to, you must change the voting ratio. We want equal votes with you. Three commissioners get three votes. Each one of you have a vote, each one of us is going to have a vote. If you are not agreeable to that, then there will be no Tri-County Council, because we are not going to fund it." That became an issue, but it very shortly was resolved, because they changed it. We all had equal votes.

The Tri-County Council was a wonderful idea, and it was a vehicle that brought all the decision makers together. Whether it was land use, or whether it was the Patuxent River, or whether it was economic

development, or whether it was a health problem, whatever it was, you talked about it in all three counties at these meetings that we had. We had a central meeting place where we hung out for our meetings. I think we met on a monthly basis.

I found it to be a great resource center, and a great opportunity to pick the minds and the brains of the people that were in charge of at least administering the law, and whatever changes needed to be made in Southern Maryland. It was a great way of doing it. I give it high marks. I don't know what its function is today, particularly, but I know in those days, once we got the voting equity completed, everything went on pretty smoothly. We couldn't as a Tri-County Council. That was illegal. We could not sue the state and federal government. That was the reason we took the three boards of County Commissioners, which was perfectly legal, and went with it that way.

Walter Boynton: Take us up to the federal court case. The Commissioners were suing the state of Maryland, particularly the Department of Natural Resources, I take it, and the federal government, EPA.

Bernie Fowler: Mr. Fleischaker, after his research on the possible recourse in the courts, recommended that we enter into three suits. One was to stop the construction of the Savage wastewater treatment plant until such time as they retrofitted all of the large plants dumping into the Patuxent River, which involved Prince George's County, Anne Arundel County...

Speaker 3: Montgomery?

Bernie Fowler: ... There was no discharge in the Patuxent River. There was, at one time we had two discharges in the Patuxent River. We had one in Solomons and we had one at Parkers Creek. One of the earliest things that we did when we were sworn into office was to get the experts together, working with the state, find us a way to get those pipes out of the river and out of the Parkers Creek area. If we're going to be fighting for the Patuxent River, we want to be clean.

As you well know, it ended up just that way. We had land application, or land infiltration, or whatever it is. I think they grow trees on one of them. This works very well. We could then look at everybody upstream, the other four counties, and say, "We don't discharge into the river. We think the river is important enough, it's a precious resource. We're not going to add to the pollution by discharging in it. All we're asking you to do is to find some other way to take care of your human waste besides dumping

it into the stream. Land application's a perfect solution for you." That was a wake-up call for wastewater treatment plants.

Walter Boynton: You're building up towards getting this case into court.

Bernie Fowler: That was all a part of it, and with the absence of cooperation from the regulatory agencies and the Governor's office at that time, we agreed with Mr. Fleischaker. He wanted to stop the construction on the Savage wastewater treatment plant. He wanted to back that up with, if that wasn't stopped, the next suit would be to require them to do an environmental impact study, which they didn't have to do at that time. The third one, which was the most important one, under the Clean Water Act of 1972, the state of Maryland was to come up with a plan that would clean up the Patuxent River, because it was an imperiled river at that time. This is years later. That was the big suit. That's the one that ... one was heard locally, in Judge (Perry) Bowen's court. He disagreed with the suit. He failed to stop the construction on the Savage wastewater treatment plant. He did, however, require the environment impact statement. I think that went to the appeals court, and the appeals court upheld that, so they had to do an environmental impact statement on Savage wastewater treatment plant.

The big one that we waited a little while for ... addendum to the court suit that I forgot, that I think is incredible. The attorney we had, this is the suit that the three Southern Maryland counties had against the federal government, state of Maryland, because of the inadequacy of the plan that Maryland had accepted and EPA had agreed to accept, and it was totally contrary to what the intent of the law was, totally inconsistent with cleaning up the river. In order to make a case, he had to have some material, and he also had to have some signatures of people that were responsible for that material. There were five scientists at the Chesapeake Biological Laboratory that signed the affidavit. That was very convincing to the judge. I believe his name was Judge Sirica.

Michael Fincham: Oh yeah. Famous, he was the Watergate Judge.

Bernie Fowler: Yeah. There was another one involved in another suit, too, a Judge Oberdorfer, if you remember that name. This suit here was Judge Sirica, and he had to look at those signatures and all, and that was Rita Colwell, Joe Mihursky, Don Heinle, "finally Heinle," and George Krantz ... there's a fifth one. I was in court the day the judge, it was a federal court in the District of Columbia, on Pennsylvania Avenue, I think it is. Here was Mr. Fleischaker over on the plaintiff's side, and here's about 30 attorneys over here from the federal Governor, state of Maryland, you know. It's

little Mr. Fleischaker all over by himself here, and I'm sitting back and kind of chewing on my nails, you know, I don't know whether we're going to make it out of here pretty good or not.

It turned out that, in the final arguments, the judge ruled in our favor. He simply said, "The folks of Southern Maryland were right. We've gone over the information, the state plan to clean the river up, and all this does is accommodate more growth: bigger wastewater treatment plants, larger pipes, and all. That's not going to clean the Patuxent River up, so I'm going to put the brakes on everything in the Patuxent River watershed. There will be no federal funds for domestic water supply or a wastewater treatment plant until you come up with a plan." That was the big ruling, and that is what got Governor Harry Hughes really interested in, because he's been, I'm sure, nurtured from all points north. We've got to get this straightened out some way.

CONNECTING WITH GOVERNOR HARRY HUGHES

We had him down on a boat trip, if you remember. You were ... Walter Boynton was a very important part of that. We started at Shorter's, had the two boats from the Biological Lab was *Orion* and *Aquarius* at that time. It seems to me we had another, smaller boat that carried some overflow of reporters, I don't remember that distinctly, but we didn't have room for all the reporters on the boat that the Governor and the scientists and all were on. That was the *Aquarius*.

The plan for the day was to demonstrate to Governor Hughes there's something wrong with the river, and we plan to show you what's wrong with the river today. Walter Boynton was a very, very important part of that, because he made a lot of the presentations, as was George Krantz, who was the oyster expert. They dredged oysters up as we were going down the river there, just stop at a bar, dredge some oysters up, put them on deck, and they shucked the oysters. You could look at the oyster and watch the oyster die right in front of your eyes. You remember the stylus in the oyster would just ... it was nothing but skin and water, there was nothing there.

Of course, my take on that was that oysters are no different than a human being. When your immune system is down, you know, and you don't get the proper nourishment, and your immune system begins to depreciate, you're subject to anything. I think that's really what happened. Of course, the old MSX and Dermo that had been on board since the '50s, I believe, they made the oysters a little more vulnerable to accepting this, and that tore the oyster industry up.

The governor got all of this. He was a very heady man, he understood when you told him, and he understood well. Had a good grasp on it. Walter was very demonstrative in his presentation, so that you didn't have to be a rocket scientist to understand what he was telling you was right. George Krantz played a big part in there. They did core borings, they did a whole bunch of things that really exhibited the demise of the river, and also suggest the causation. They knew from the records they had been keeping since 1930, I believe, '29, something like that, they knew that the over-enrichment of nitrogen and phosphorous was the 2 main culprits, plus the toxicity, because a lot of the plants were using chlorine at that time. We now know that chlorine is very deadly to aquatic life.

We cruised on to Solomons Island. We got to Solomons Island that day. We had a dinner, and I had been chosen to be the keynote speaker, and then the Governor was going to respond to my remarks. I had some prepared remarks, and I stuck to them very closely. It was pretty good stuff, but at the very end, I added that one thing, I thought it would put him in a mood. I said, "Governor, you know, we've just enjoyed a date that we celebrated in America called Thanksgiving. It's the time that we pause and we give thanks to our Heavenly Father for all the blessings He's given us, and all we have. We're thanking the Patuxent River today for all the good things it's allowed us to have. Christmas is not too far around the corner, Governor, it's just around the corner. You know, you could be a big help. You could be Santa Clause this year to us, and clean this river up. We'd be ever so grateful. We appreciate so much your company here today, and your leadership in the state. We love you, and we hope that our experience with you today will convince you that we do have a problem, and your support will be forthcoming. Lord bless you." That was it.

He got up, started making a speech. I can see him now. He was a handsome dude, still is, he still really looks good. Thick hair. He said, when he started off, "Ho ho ho!" He committed himself. That was unusual for a Governor to do. He committed himself that day. "I'm convinced you do have a problem, and we're going to do something about the problem."

What was that something? First thing he did, and this was a very bold stride, the federal government did not believe that nitrogen was a serious part of the culprits that was destroying the river. The hydroscience, or hydro ...

Walter Boynton: HydroQual.

Bernie Fowler:

The HydroQual study that was done, it was a Professor Brown in charge of that. He gave us a report, he told us that, hey, you don't have to worry about nitrogen, that is not a problem, but you have serious problems with phosphorous. Phosphorous is what's killing your river. That was contrary to what our good brothers down at Chesapeake Biological Lab had found and was telling us. In furtherance of their position, they set up a microcosm study over in Benedict, the field station over there. They had these big, large tanks, and they had river water in it, and they would inject phosphorous into one tank and nitrogen into another tank, and phosphorous and nitrogen into another tank.

The first tank, when they put the phosphorous in the saline part of the water, it was hardly noticeable, any growth in the algae that was in the tank. When they put the nitrogen in the second tank, it grew by 700%. When they combined the two of them in the third tank, it became 1500%. That was the study that really helped us settle it in the long run. We find out, in order to demonstrate this, it's going to cost \$29 million to take the nitrogen and phosphorous out of the Western Branch, which was the largest wastewater treatment plant on the Patuxent River at that time. Where's the money coming from? Federal government won't give us any, because they're telling us that nitrogen won't make the difference. After their study over in Benedict, they were able to convince the federal government nitrogen is a serious contender and you need to rethink your policy.

Governor Hughes put up \$29 million state cash to take the nitrogen out of Western Branch alone, one plant alone, and the other plants followed suit, but we didn't quite get there, because the other plants didn't clean their act up, if you remember. They kind of drug their feet on it, and didn't get them cleaned up. It wasn't until ... now I may be getting ahead of you, but I think it probably was the late '80s, I put a bill in the legislature which mandated certain criteria that the major wastewater treatments had to meet by a certain date. If not, pretty heavy fines kicked in, charging them for every pound over nitrogen, every pound over phosphorous that they put in the river past that certain date.

It was pretty easy to get it through the Senate. I had a lot of sponsors in the Senate and got it through the Senate okay. Got over in the House, and it moved over in the House pretty good. Got to the Governor's office, and now we don't have Governor Hughes anymore, we have Governor Don Schaefer. He was dead set to not sign the bill because he said it was a mean bill, a very mean-spirited bill, he didn't like the tenor of it, and he wasn't going to sign the bill. That's what his people told me. I said, "You're kidding me. Tell me you're kidding me. This can't be so. I mean,

I've worked hard on this, and so have hundreds of other people. We know it's the right to do. I can't understand. Are you really serious? The Governor's not going to sign this bill?"

After they convinced me they weren't kidding me, I got on the phone, got his secretary, made an appointment, went over, and he and I sat just like we're sitting here now. Don Schaefer was a good governor. He had a certain temperament and disposition that, at times, could be a little contentious to work with, but one thing that he respected was a person with integrity and honesty. Tell him the truth and don't go behind his back and try to cut him up in the news media, which I never did, I never did with any of the governors. I talked with him, and he said, "Well, why should I do this?" I said, "Governor, we started back with Governor Mandel, Attorney Burch, Secretary Coulter, all the regulatory agencies, and all we got was promises, and nothing's happened. The only way you're going to get this done is to have something mandatory that's going to force them to do it. Otherwise, you will not enjoy any success on the Patuxent River whatsoever."

We talked for a considerable time, and finally, he said, "Well, I like you, Bernie. I'll sign the bill." I got a busload of kids that had testified for the bill in Saint Mary's, they brought them up on a bus so they could be there for the photo op, because they were very helpful with the bill. He signed the bill with a lot of fanfare that day. I know Walter Boynton can verify this for you, that not too long after that bill kicked in, and all the major plants met the standards that we set in that bill, we saw a tremendous improvement in the Patuxent River. Went down for the wade-in, I couldn't believe it. The grass was growing back, the water was clear. The kids were taking the grass, pulling it up, making wigs of it. It was a day in history that I'll never forget.

I thought we had turned a curve, and everything was going to be okay, but remember we had 20 million gallons of effluent going into the Patuxent River at that time. Today, as we speak, there's over 60 million gallons per day going in. The magnitude of the increase and the volume in years, very few years, soon offset the progress that we made by the standards we set. We had to go back to the drawing board.

We worked, after I got out of the Senate, Walter Boynton was a main part of this, and we put another bill together which would have captured all of those things. It would have brought all of the nitrogen and phosphorous content back to where it was in the 1950s at all of the plants in Maryland. It got passed in the House, came over, it was on third reading in the Senate, and somebody had got to the leadership up there

and told them this was going to be so costly, that the wastewater treatment plants, small plants and all, they'd have to shut down the trailer parks, people wouldn't be able to have a place to live and all. The bill got killed. Sometimes they say you lose a battle and don't lose the war. If Sue Cullen is reelected, and I surely hope so, my plan is to go directly to her when she's sworn in and say, "You remember the bill we put in '06? Let's do it again. Let's try it again and see if there's any more sympathy for it."

Oh, enough of that.

THE PATUXENT RIVER CHARETTE

Walter Boynton: The famous charette. That followed the federal court case decision. Tell us about that charette. That was, I thought, fascinating. Also, from my point of view, it was really scary. Tell us about the charette, why did it come about? Bill Eichbaum, I believe...

Bernie Fowler: Bill Eichbaum, John Griffin. They were the two major leaders, with my help, because ... I have kind of, and I apologize for it, but I've omitted a very important phase of our struggle for the Patuxent River. It comes under the umbrella of what we call a charette. You bring people together, all the stakeholders together, and you try to, through consensus, hammer out a plan that will take care of the problems that you're enduring.

Governor Hughes had told me personally, put his hand on my shoulder and told me personally at some social gathering that the government has, he said, "I want to resolve this. I really want to get this resolved. I'm willing to do whatever we can here to do it. I know that you want it resolved, absolutely. I'm going to send Bill Eichbaum and John Griffin down to your house. You'll spend a day and talk about this and see what you come up with."

We started our day off, I was living on the bay over there then, and I had a 17-foot Mako that I used quite frequently. I took them out, we caught a few blue fish, and came in, and my wife fixed us a real nice lunch. I had a big screened in porch that jutted out from the house. We sat there and talked about it.

They said, "What do you think is our best approach?" I said, "Well, I've been thinking long and hard about this, but I was involved in a procedure, it was called a charette, at the University of Maryland." There was planners from all over the place. I don't know whether you're involved in that or not, but they had planners from higher universities all around the

countryside that came. They were setting a plan together for Calvert County. While their plan was 200 years ahead of itself, there was some good stuff in it, but their procedure struck me as being a very appropriate way to deal with the Patuxent River.

I suggested this to Bill Eichbaum and also to John Griffin, explained to them how it worked. Sounded like a good idea, so we'll go with it. Then, they brought in some planning coordinators, I think they were from Boston, I believe.

Speaker 3: Yeah, they were.

Walter Boynton: Mediators.

Bernie Fowler: Mediators, that's the correct word. They were mediators, and they began to try to put it together. Well, it wasn't working, so finally, John Griffin and Bill kind of took the show over. He had each of us that was there sit down. We had officials from all of the counties, we had the scientific community, which we're fortunate to have.

Walter Boynton: You, me, and Chris D'Elia. Chris was there.

Bernie Fowler: Chris D'Elia, Walter Boynton, I can't remember whether Joe Mihursky was there or not.

Walter Boynton: I don't think Joe was ... but no press.

Bernie Fowler: No press, no.

Walter Boynton: That was part of the deal.

Bernie Fowler: Part of the deal was absolutely no press, because we wanted to be able to say what we wanted to do without any repercussions. The plan worked out good, it was a good exercise. I recall on the very last night, we were hammering away, there was a retired general who was the director, I guess you'd call him, of the ...

Walter Boynton: WSSC?

Bernie Fowler: Yeah. Public Service Commission. After, you know, a couple of social cocktails and all, he kind of loosened up. We're sitting in front of the fireplace, and I said, "Why are you so opposed to doing land application? Why don't you be the leader, and go ahead and take one or two of your plants? Take Western Branch, put it on a land application, show the

world you can do it. Make a real difference in the water quality in that Patuxent River." After stuttering and talking for a little while, he finally said, "Okay. I'll agree to do it," and he agreed to do it.

Well, we thought we had problem solved, then, but after the charette broke up, we had some pretty good stuff there. I want to say again, the Chesapeake Biological Laboratory was the linchpin. They were the key to making that successful, because they had the scientific data to explain the deal with, they knew how to put it together. We were very fortunate to have that kind of resource. It all came out, I thought, real good, and we were happy, were kind of patting ourselves on the back, you know, because we've turned a corner here again. Then, just about the time the general got going on this thing, planning and all, his board called him in and fired him. That was the end of the land application for Western Branch. I don't know what it would have taken to revive that and get it back on track. Anyhow, we never did.

I kept pestering them, and every time I'd get a chance with Patuxent River Commission, I'd harass them about it. "Why do you have to dump everything in the river? Why is the Patuxent River have to be beat up because you're trying to get rid of your human waste? Find another way to do it. We've asked you to put it on land, you agreed to it, and then you turned 180 degrees on us. Not too late." We were never able to convince them, because it would take a lot of land for a plant as large as Western Branch. I think, at that time, there were probably 20 million gallons a day, close to it.

Walter Boynton: Oh, it was more than that.

Bernie Fowler: Probably more than that. At any rate, the charette was a good exercise, and it turned out. Initially, I told you, they sat us all down. The first thing we did was, each one of us wrote on a piece of paper our goal for the Patuxent River. I wrote what I thought was appropriate, and I don't know why, but mine was chosen to be, out of all of those, that was chosen to be used as the goals for the Patuxent River. Incidentally, it still serves in a similar way as a goal for the Patuxent River Commission. It just simply said, "Take the water clarity and transparency back to what it was in the 1950s. That's a gauge you can use, and the generations that follow us deserve no less. We must do this." They used that as their slogan, or their motto, for the meeting.

Now, you take hold.

Walter Boynton: Well, I remember ... that there were a number of political people there...

Bernie Fowler: Oh, yeah.

Walter Boynton: ... who really did not want to be there.

Bernie Fowler: That's right.

Walter Boynton: It was pretty tense. My memory was that the facilitators really helped us bring those people online, so to speak, and work at decision. A second thing I remember is that, while you give Chris and I a lot of credit, I remember both of us were scared half to death. At one point, a question came up of, a guy said, "Well, just how much nitrogen and phosphorous comes out of these sewage treatment plants relative to everything else?", and Chris and I had scurried off to a little side table, Tom Rymer was hanging over our shoulders telling us to hurry up, and Chris and I are scribbling the numbers that we had from various and sundry reports down on a piece of paper. I clearly remember Chris and I looking at each other saying, "Do we think this is right?" We agreed that it was as right as we could make it. That was largely, I think, our contribution to this.

Then, I remember a period of time where some of the upper counties were grumbling heavily about doing anything.

Bernie Fowler: Oh, yeah.

Walter Boynton: I remember Tom Rymer sort of sliding out of his seat, and what he said was that Southern Maryland will do whatever Southern Maryland needs to do.

Bernie Fowler: Yeah.

Walter Boynton: I remember that as sort of an important moment, that it seemed like all right, people settled down and decided to move in a positive direction.

Bernie Fowler: Absolutely.

Walter Boynton: Also, this was held at a convent.

Bernie Fowler: It was.

Walter Boynton: It was interesting. Every once in a while, you'd see a nun go floating by, and I think that helped to calm some people down, at least the level of cussing and bad language was severely suppressed.

Bernie Fowler: I believe it did.

Walter Boynton: I do, too.

Bernie Fowler: Absolutely, because you'd see them come by with the habits, you know, and you send a different signal to them, you know.

Michael Fincham: Where was the convent?

Bernie Fowler: It was up in Marriottsville in Howard County. That's all I remember about it. I do remember once when all the sisters would go by with their habits all in a row, you know. Everybody looked ... drinking cocktails, and here goes the sisters by.

Walter Boynton: Then at the very end of it, when we said "Okay, this is over," Tom Horton was literally standing outside the door to ...

Bernie Fowler: Interview?

Walter Boynton: ... try to get a statement, too, because he was, still is, very committed to trying to get accurate reporting of ...

Bernie Fowler: Oh, my gosh. He's ...

Walter Boynton: ... environmental issues.

Bernie Fowler: He's worth his weight in gold. He really is.

Walter Boynton: Part of the charette, I thought, made some, ... broke new ground. Nitrogen was important as well as phosphorous, and that was an early victory.

Bernie Fowler: Absolutely.

Walter Boynton: Much of the scientific community still did not agree with that, and certainly, the regulators didn't. That was a big deal. What were the shortfalls? What should we have done better?

Bernie Fowler: The shortfall, and this has happened on a number of occasions, is we get almost to the finish line, and then we get tired and we stop. We just don't get that last thing we need that compels them to do A, B, C, and D. That's been the deficit all along, why we haven't enjoyed more success than we have, because just like the plan for the Patuxent River that came out of this charette, that came out of the court order, all of those, but there was nothing in there that set datelines, there was nothing in there that said anything that must be accomplished by this date. Again, just like every

other plan we've ever had for Maryland, dust collectors on the shelf. That's been the culprit that's been able to defeat us at every turn of the road. Everybody's well-intentioned, and they want to do it, but when they find out it's going to cost their county money, they do a different take on it. We just have not been able to get the things done that was required way back in 1982, I think, when we had the first Patuxent River plan on board.

THE ANNUAL PATUXENT RIVER WADE-IN

Walter Boynton: Let me switch gears here just a little bit, Bernie. One of the issues that has bugged me my whole career is that it is difficult to get the public involved in some of this stuff, some of these environmental issues. One of the things that I've always thought a lot about, and one of the things that you're the poster child for, is trying to communicate the value of the environment to our society, to our souls for that matter. You came up with a Wade-In, and you worked with Tom Wisner on that as I understand it. That's a way of talking about how we relate to these ecosystems, the river in this case, or the bay.

This is another interesting thing to me. If I could think of two people that I would say would be the odd couple, you and Wisner would be pretty much the mold. Yet, you had known each other for many years, and I know because I knew Tom for ages, he had the greatest respect for you. From the point of view, this is not like environmental science, this is more like environmental missionary work almost. You and Wisner were buddies on this.

Bernie Fowler: We were a team.

Walter Boynton: How did that start? How did the wade-in come about?

Bernie Fowler: Actually, back in my early days, when I was trying to focus attention on the river, I'd always used this. It was kind of corn pone, but I'd always used it, and it seemed to be effective. When I was a young man at Broomes Island, I could wade out chest high and still look down and see my feet perfectly clear. I could see the grass shrimp in that lush green grass. Tom Wisner, who became a very dear friend, and a person that's so easy to love, he said to me one day, he said, "You know, you keep talking about this wading out and seeing your feet when you were young and all. I got a suggestion: let's start doing that. Let's wade out in the river, dress up fit to kill, hold each other's hand, and wade out every year. That will send a signal to everybody that you are still wading out there looking to find your feet." In all fairness, he was the motivator that got me to do

that. I said, "You know, that isn't a bad idea, I've been saying it all along. Not a bad idea."

We were very casual about the first one, Tom said, "How should we dress? Dress up fit to kill?" I said, "No, I'd like to wear what I used to wear when I was a boy. We should wear coveralls, an old blue denim shirt, and sneakers. And a straw hat. Mother always made us wear a straw hat when we went out. I'd like to wear that." He said, "That's a good idea," so he did the same thing. He painted Secchi disks on the toes of his sneakers. The first one we had, we had at Broomes Island, Betty Brady, who's been somewhat forgotten out of this, she was so helpful. She was very close to Tom, very close to me. The first wade-in we had, we probably didn't have more than, I'm going to guess a dozen people at the most, but it was ...

Walter Boynton: What year was that, Bernie?

Bernie Fowler: That was 1988.

Walter Boynton: Okay.

Bernie Fowler: 1988. We would take our picnics baskets and after we waded in, Tom would get his old guitar out, and start strumming. We all sat around, sometimes we'd make a little fire, roast hot dogs, whatever, because Mr. Rogers had given me permission to use the land down there. That was probably the most comfortable, the most friendliest, and the warmest time that I had during my struggle for the Patuxent River, because that kind of lifted the burdens off. You relaxed among people you knew loved you, and you loved them, we talked river talk, and we'd sing songs, you know, 'Chesapeake Born,' or we'd sing ... one he sang about oh, captain's gone, I forget his name. He wrote that captain ballad, oh, captain's gone, captain's gone.

Walter Boynton: That was from Martin O'Berry.

Bernie Fowler: Martin O'Berry, captain's gone. He wrote all these songs, and they were good. They were good stuff. The kind of things that, if you had affection for the river and the bay, it really blended in, and you just wanted to keep singing and singing. We did that for a few years, and then all of a sudden, politicians started to show up because we got front page coverage on everything, well, here comes a politician, which wasn't a bad idea, because they were the ones that had to make the decision. I really thought, at the time, that we were really going to get some positive connections with them, that we were going to get some people that were

going to die on their swords if necessary to clean that river up ... but that didn't happen then, and it hasn't happened yet.

That was the genesis of the wade-in. It goes on, and I haven't kept count of the wade-ins, but I've done as many as 11 wade-ins in one year. I went to the Patapsco River one time, and it took me almost all day long to go up there and back because they had a long program, they would all wade in, went and had a feast afterwards. I've waded in the Rhode River and the Potomac River, in half a dozen places. Saint Mary's River ... oh, gosh, I can't remember them all, but I've done as many as 11 wade-ins in one year.

It really caught on all around. The reason for that is, after we was enjoying success down here, Tom and I decided that, well, let's don't be selfish. Let's see if we can't spread this to other jurisdictions. I wrote letters to all the tributary strategy teams, inviting them to come down for a wade-in, and many of them came. They liked the idea. They went back home. The next year, I wrote them a letter well in advance of the June date, thanked them for coming and all, and "Why don't you consider having a wade-in in your tributary?" They did, and it's ongoing still, all around the state. I don't think it's probably as eventful now as it was a few years ago.

Sadly, and I hope I'm wrong, I hope I'm proved to be wrong, but I'm beginning to see less interest and less enthusiasm in cleaning up what I believe to be one of the greatest estuaries in the world, not just the United States of America. That bothers me, because, you know, it's like when the tire goes flat, the car doesn't go, and the car stops. That's my fear, because with all we're doing in environmental education with our young people, and trying to keep abreast with the adult population and all we do to make them aware of what's going on, I think they looked at the hundreds of millions of dollars that has been spent doing this, and then they see that progress is very, very slow. The days for enjoying a clean bay are so far down the road now, we've lost track of it. I'm afraid that there'll come a time when people like us, who have a uncompromising determination, interest, and affection for the water quality, will begin to wane.

When our voices leave the planet for whatever the reason, what happens then? Computers take over? I don't think so, while computers is a genuine piece of technology that has made life so easier for a lot of people, it also has its curses with it. I'm just unsure at this point, I don't feel good about the future, because there doesn't seem to be that level of urgency anymore. It's okay, you know, 2017, when we get the

wastewater treatment plants straightened out. Yet ... Walter Boynton and I have talked many times about this ... when they get them all cleaned up, get them in operation, and they reach their full potential, that is their limits of flow in the plants, the amount of nitrogen, phosphorous that they're dumping into the river then, although early on it shows an improvement, will be what it was in 2010. That's 4 years ago. I can't suggest to anybody with any intelligence at all that that's real progress. To me, that's a real downturn.

I've been sermonizing on this. I didn't say anything until I talked with Walter Boynton and we kind of collaborated on it, and decided that yeah, this is a fact. We can say this, because I was saying there would be more nitrogen and all, and Dr. Boynton corrected me and said "No, use the year 2010. You'll be accurate then. Nobody can refute that. Just say, 'It will be no less than it was in 2010.'" That was two years ago we talked. Now we're talking about four years ago. I've talked with several of the environmental EPA people. Walter Boynton was present with me when we talked with one in Annapolis last year, I believe it was. He was very impressed, but when he walked out of the room, he walked out saying, "I believe every word you're saying. That's all we got."

What I'm saying, I'm going to say again, and I hope that, if you get a chance to view this, this statement will ring out in your ears that you'll never forget it. We really need to jump-start the bay program again. We need to have people understand the severity of the situation. It's not just the loss of aquatic life, which is a great loss, it is not a lot of other things, but it's becoming a health hazard. You're seeing signs of the *Vibrio vulnificus* showing its ugly head in the Patuxent River. How do you make that better? You make that better by ... they say it's caused by high salinity and high temperatures. I also, on my own, say that it's also water quality plays a part in that. The reason I say that is because we never knew of that before. It may have always been here, but it was never excited or accelerated to where it became a real threat. Now it is a real threat, and so health is a very serious consideration.

If we lose the Patuxent River and the Chesapeake Bay to where it becomes unusable, that's the heart of Maryland. All the resuscitation in the world won't bring that heart back. I think we can reach a point of no return, and I don't know how soon that's going to happen. There is hope and there is still an opportunity, but the windows are becoming less, and while there's a lot of reason to gloat over the increase in the oysters, the aquaculture program and all ... that's a very healthy sign, but there are other things that we have little jurisdiction over. The stuff that comes out of the Susquehanna River: 22 billion gallons a day comes out of the

Susquehanna, comes into headwaters of the Chesapeake Bay. It don't disappear when it gets to the Chesapeake Bay. It goes on thriving, and the problems that they have up there are sooner or later going to be all over. It's going to be a universal thing.

We now have New York, we have Delaware, we have West Virginia, that are bona fide partners in Chesapeake Bay Commission. EPA is saying they must be part of it, because they're part of the watershed. How do we convince people in New York City that rarely ever see the Chesapeake Bay that this is an important undertaking and should not be taken lightly? Even though you are not a part of the bay, this is the United States of America, and we need to use this. This has been a universal observation. All over the world, people are watching what's happening in the Chesapeake Bay in hopes that we'll find a solution that may resolve the problems that are generating elsewhere in the world.

Lot of work to do, long ways to go, but remember the 8 words: Never give up, never, never, never give up, and that's what we should do.

Walter Boynton: Winston Churchill.

Bernie Fowler: Winston Churchill. I always give old Winnie credit for that.

Walter Boynton: Yeah.

Bernie Fowler: I never will forget the story they told on him. He and Lady ... Astor, was it? Was it Lady Astor?

Walter Boynton: Oh, yes.

Bernie Fowler: Yeah, she ... they didn't get along good.

Walter Boynton: No.

Bernie Fowler: Old Winston liked a little libation. He's at this party one night with her, and he was feeling pretty good, and she walked up to him and she said, "Winston, you know one thing? You're a drunk. If you were my husband, I would put poison in your tea." He looked right back at her and says, "And if you were my wife, I would gladly drink it."

Walter Boynton: That is so great. He was one sharp dude.

Bernie Fowler: Oh, he was ...

THE CHESAPEAKE BAY COMMISSION

Walter Boynton: Bernie, tell us a little bit about ... at least from my knowledge of what you've done, you've been a long, long term member of Chesapeake Bay Commission, and Patuxent River Commission. Both of those are groups that are trying to move this restoration forward. You've served with them for decades.

Bernie Fowler: Oh, yeah, 32 years on the Patuxent River, and I think Anne told me it was 28 years on the Chesapeake Bay Commission. I haven't verified that, but she said she believes it's 28. I'm the longest standing member of the Chesapeake Bay Commission now. Many of them have crossed the river Jordan, some of them are just retired because of other reasons, particularly if they left office. Once you leave the office, there's only one other way to show up on the Chesapeake Bay Commission, and that's as a representative from their jurisdiction.

Walter Boynton: What do they call them, citizen representative?

Bernie Fowler: Citizen representative. That's why I'm serving on it now. It's like everything else we've done. It's collaborative volunteerism. There's no compelling reason to do it except the integrity and the desire of the members involved. Earlier, I mentioned about the addition of the other states, now, that are part of it. I hope that they will think very unselfishly and know that to be in isolation in this is not appropriate for the situation. They must be a part of it, because they are a part of it. They're contributing to the demise of it. They must be a part of fixing that.

In the final analysis, both of those commissions have no authority to do anything. All they can do is talk, and they can talk, and they can talk, and I think in the Patuxent River Commission particularly, I think their numbers are too high. They have 38 members there. It's kind of unwieldy. When it was first legislated, the Patuxent River Commission, we had seven members, one from each of the counties, and it had to be an elected official from that county or the next of kin, in other words, someone close to that elected official that had some authority. We were able to get some things done then. We were able to make decisions quickly. Now, it's ... I know Walter has served on that commission, and I wouldn't be surprised if his assessment doesn't coincide with mine, but while their intentions are good, the progress they're making is not very measurable.

The Chesapeake Bay Commission, I think, has been very helpful, because they've been able to prod and keep, particularly with the governors involved, the executive committee, which is a governor from each of the

states that may have the District of Columbia and the citizens' representative ... I'm sorry, the chairman of the Chesapeake Bay Commission. They're able to at least talk to each other, but when you look at the actual progress, the measured progress ... You can look to some things, like the farm bill, which was pretty much down the tube, the Chesapeake Bay Commission was very instrumental in resurrecting that, getting that passed, and that was a very integral part of the whole game plan, was to help to support the farmers in their effort to do what they need to do to decrease the problem.

LAW SUIT WITH CHESAPEAKE BAY FOUNDATION

Walter Boynton: You were part of that lawsuit that Chesapeake Bay Foundation took to the federal government? This Total Maximum Daily Load (TMDL) is the pollution diet for the bay. That really signified the change from a voluntary, collaborative type of restoration to one that is more quantitative and mandatory. What do you think of it?

Bernie Fowler: Well, the TMDL was a long time coming, of course, so we can all understand that if you've got foreign material going in that's killing the river, and you don't take enough of that out to stop the death of that river or that estuary, it's going to die. That is an absolute that has to be. Yet, we thought everybody was on board for that, but it turns out that on the TMDL, we had 21 Attorney Generals from 21 states that entered suit against EPA to stop this, and they didn't have the authority to do this. Fortunately, the judge that heard it I think had upheld it, and it's still alive and kicking. What'll happen down the road, I think they'll take an appeal on it, we're not quite sure, but it's like every other thing that you attempt to do with the Chesapeake Bay.

It's the old adage that everybody wants to go to heaven, but nobody wants to die to get there. That's very true with the Chesapeake Bay. Everybody wants to clean the bay up, but when they find out they're going to have to pay a rain tax, going to have to pay a flush tax, they're going to have to pay this and pay that to make sure that there's money there to do the job. It took a long time to get where we are in terms of the demise, it's going to take a lot of time and a lot of money to bring it back, and it's going to be a very costly project. Give you one example, I'm told in Anne Arundel County, just the storm water alone will cost them in excess of \$2 billion, and that may be a very conservative figure. We've got to look at this and know that, you know, it's like fighting World War III. It's going to be costly, but it's essential if we're going to save the Chesapeake Bay.

The Commission now stays in pretty good stead. I think we helped them a little bit on that. Will Baker, who is president of the Chesapeake Bay Foundation, called me on the phone and talked with me at some length, and wanted to know if I would consider being the lead plaintiff in a suit against the EPA. They were suing because they failed to abide by the covenants of the Clean Water Act, which was passed in 1972, and again, had just kind of sat up there on the shelf without anybody doing anything. This lawsuit was settled out of court, but the best legal minds, the documents that we signed off on, the best legal minds in the country say that if EPA reneges on any one of those, any one of those requirements, that we have the right to go into the court. They're extremely confident that the judiciary will force them to do it, because they signed this agreement, and it has some validity in terms of its potency in getting the job done.

That's a real positive, and that's a real sign of hope. That makes the light at the end of the tunnel a little larger. We want to make it glow and get bigger and bigger. We want that light at the end of the tunnel to get much larger than the dead zones in the bay.

THE FUTURE

Walter Boynton: Well said. You know, either because I've asked you or because of the conversation, you've gone through my questions. My last one: what's the future hold? What's your view on that, for the bay?

Bernie Fowler: Well ...

Walter Boynton: An optimistic one, or... ?

Bernie Fowler: I stay optimistic. I know sometimes my remarks appear to be opposite of that, but I do that because I feel the truth will set us free. I think I need to tell the truth. I don't need to say, "Oh, the dead zones are smaller, there's no such thing as Vibrio." I've got to tell the truth about it, you know. I think we have hope. I think the things going on ... I call it the Chesapeake Triangle, nothing like the Bermuda Triangle, but there's three parts of it. When we entered suit against EPA, and we did a rally up in front of the federal court building in Washington, D.C., and there was a crowd of people there. I never will forget, Will Baker said to me, "Bernie, get up on the stage, see if you can rock these people some." I got up, and it was a fortunate time for me, because I always get the signals I need to say some things that impact them, and it went over good.

That court suit, in my personal opinion, was the action needed to encourage the President of the United States to sign an executive order requiring EPA to come up with a plan in 120 days that would restore the Chesapeake Bay. In 120 days, they did just that. They came up with a plan. They're sticking to it pretty good so far, the courts have upheld them in those TMDL, for instance, that we talked about earlier.

I do think they have the tools now to get the job done. The downside ... this, again, is personal ... is the length of time it's taking to do it. I mentioned before, and it doesn't hurt to repeat it because I think it's worth saying, I would have loved ... when I started with the Patuxent River in 1969, once we got things moving, we got the Governor on our side, we had people convinced: hey, something is wrong with the river, thanks to Chesapeake Biological Lab. Then, you were on a roll, and you felt that things were going to happen. Then, when we had the Governor intervene and put \$29 million into taking the nitrogen out, and you all proved nitrogen was the culprit, phosphorous was very damaging up in the freshwater part of the river but didn't have much influence in the lower part except when combined with the nitrogen ... all of these things were very bright, very encouraging. The next thing, you've got the suit, the Chesapeake Bay Foundation, you've got the executive order by the President, you've got EPA complying with that.

There's a third thing, now, it's not jumping out at me too quick. There's one other thing that's a very ...

Walter Boynton: Clean Air, less nitrogen deposition?

Bernie Fowler: Yeah. That we do have high hopes now. That air deposition, which is probably 25% of the problem, sooner than we think, they're going to have a handle on that, and we'll be making some headway there. There's the triangle, and there are reasons for all of us to have hope, the reason for us not to give up, the reason for us not to be hoodwinked into thinking it isn't worth it. There are billions and billions and billions of dollars to be earned out of that Patuxent River if we get it back to where it was productive, and the aquatic life is good and healthy again. There are more reasons to do it than not, but even if you dismiss all of that, human health is extremely, extremely important. That should not be minimized, it should be underscored and not taken as a very subtle part of the problem.

Walter Boynton: You know, I've been giving these talks to the County Commissioners for, oh boy, 25 years, once a year.

Bernie Fowler: Yeah.

Walter Boynton: It's only been in the last couple of years where one of the questions that they would ask, every year, one commissioner in particular, was, "Is it safe to swim?" That should be a no-brainer.

Bernie Fowler: Yeah.

Walter Boynton: The answer should be, "Of course it's safe to swim," but there's a caveat attached to that nowadays, which is what you were talking about.

Michael, I'm out of questions.

Michael Fincham: Okay.

Walter Boynton: Have I done okay?

Michael Fincham: You've done very well. There's been a theme that's come up, where you said Don Heinle got pressure, even within the University. Gene Cronin and Harry Hughes are both turned down for the Chesapeake Bay Commission. Is this the price of environmental activism on the part of scientists? Is that ...

Bernie Fowler: I couldn't say. I think in the case of Don Heinle, yes. There's no question about it, in my mind. Having talked with people, and understanding that the kind of personality he was, and the character he was, yeah, I think it was payback for him. I really do. In terms of Dr. Cronin and Governor Hughes, there could have been a little bit in there for Dr. Cronin, because I know Dr. Cronin had sort of a replica of what the thoughts of Dr. Truitt was. Dr. Truitt used to say, "Unless you manage the oyster industry better than you're doing now, sooner or later, you won't have any oysters." When John Smith sailed up, the oysters on low tide, the reefs were out of the water. You don't find that now. Won't find that. You don't find the huge mountain of shells at Warren Denton's oyster house. In fact, the oyster house is now a cocktail or beer joint, whatever you want to call it.