

Big Picture Perspective

When Craig Johnston, Director of the Earthrise Law Center, a law clinic at Portland, Oregon's Lewis and Clark Law School, heard about the American Farm Bureau Federation group's continuing efforts to derail the Chesapeake Clean Water Blueprint, he decided to get involved.

"Of course we wanted to be involved," Johnston said. "The Farm Bureau's challenge was a frontal attack on the clean-up plan. It had momentous significance. Our antennae were way up."

So Johnston, a law professor colleague, Allison LaPlante, and four third-year law students, crafted a friend of the court brief for the case. Their work explained nuanced aspects of the law supporting the Blueprint, explaining why the plan is constitutional and within EPA's authority.

Other friend of the court briefs in support of clean water were filed by the states of Virginia, Maryland, Delaware, and the District of Columbia; seven cities (Annapolis, Baltimore, Chicago, Los Angeles, New York, Philadelphia, and San Francisco); a group of 19 prominent law professors; and 27 environmental organizations from across the country.

CBF appreciated the support. "Federalism [the constitutional relationship between states and the federal government] was a key aspect of the court's decision, and that Earthrise supported that argument was very helpful to the cause," said Jon Mueller, CBF Vice President for Litigation. "The Chesapeake Bay is a long way from Portland, so we were happy they were willing to write the brief."

Earthrise's brief was one of four from groups that independently explained significant aspects of law to bolster CBF and EPA's central arguments. Mueller, who argued CBF's case before the federal district and circuit courts, said that the friends of the court briefs played a role in the courts' affirming decisions. Now, with the American Farm Bureau Federation and its allies preparing to bring the case before the United States Supreme Court, the issues will be debated again.

"Kudos to Jon and the others," Johnston said. "They had a big picture perspective. They knew the holes they wanted plugged. Knew which legal areas would need development. It's imperative to find people who can speak to the key points. The most significant role of an amicus [a friend of the court] is to bring perspectives to the problem that the parties might not be able to fully develop."

Earthrise and Johnston have been involved in several pollution cases before the Supreme Court and have expertise in federalism and pollution issues. "The other side has endless resources," he said, adding, "Partnerships help level the playing field. This case goes well beyond the Chesapeake, and the stakes are very high." ✈



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—Craig Johnston
Clinic Director,
Earthrise Law Center

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