

# RIVERKEEPER'S Almanac

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## 'No' to Package Plants

Chester River Association is actively opposing two Kent County landowners who want to build private sewage treatment plants on their properties, held in woods, wetlands or agricultural fields.

The do-it-yourself systems are hugely controversial because they would allow development on land that doesn't perc. As Bob Parks, CRA's executive director, notes: "It's putting development in the worst possible place. It's not where we want to put our homes."

The proposed developments – one outside of Chestertown, the other near Rock Hall – are also under fire from local residents. In the case of the Rock Hall project, the Chesapeake Bay Foundation has joined CRA in fighting "package plants," as they are commonly called.

Maryland Department of the Environment Secretary Shari Wilson told RIVERKEEPER's Almanac that MDE will focus on package plants in the upcoming year. "They are legal but we do not think they are a good idea. We need to look at them carefully. The regulatory scheme we have in place did not contemplate them, yet they have growth implications and environmental implications," she said. "It may require a legislative remedy."

### Perc Test Regulations

As it stands now, she says, regulations for septic systems require a successful perc test. "If you don't have one, you can't develop the land. All of our land use and zoning is predicated on that. These plants would be turning that on its end," she added. "You're going to get development where you didn't think you would."

Kent County's water and sewer plan states specifically: "The county desires to avoid the

proliferation of these systems and shall not permit these systems merely to allow property owners to develop previously undevelopable properties." No other private systems exist in the county. Wilson said she was unaware of any others statewide.

As of press time, here's what was happening with the two projects:

- Elizabeth and Buzz Wilson received a permit from MDE last winter to discharge an average of 450 gallons per day of treated domestic wastewater from a proposed residence on Whale Point Lane into Bungay Creek. CRA, along with the Chesapeake Bay Foundation, are appealing the permit to an MDE adjudicatory hearing, as yet unscheduled. A pre-hearing conference has been set for May 9. [Editor's note: MDE Secretary Shari Wilson, no relation to Elizabeth and Buzz Wilson, took office after this process was already in motion.]

Chesapeake Bay Foundation attorney Jon Mueller said CBF is worried about the precedent the case could set. "It's the precedential impact that's got us most concerned. This could open up critical areas for further development, and the decision of the state to grant the permit is contrary to the wishes of the county. MDE said in response to our comments that had a county passed an ordinance to restrict this development, they would abide by it. For some reason, they haven't done that."

### Damaging Consequences?

Attorney Tom Deming, representing CRA and opposing neighbors, said that MDE is "changing policy" in a move that could have longstanding damaging consequences for the watershed.

"There's a lot of this kind of land in Kent County, and for as long as I can remember, state policy is that if land won't perc, it can't be developed. My contention is that if they are changing policy, they must go through the process of adopting a regulation, which is the means by which new policy can be developed," according to Deming. "My concern is that if MDE goes forward, others will apply for similar permits in Kent County and elsewhere on the Eastern Shore."

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Tony Prochaska



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Clayton Mitchell Jr., the Wilsons' attorney, said the treatment plant would have "zero environmental impact." The system, he said, would discharge clean water into Bungay Creek. Further, he said, the county's water and sewer plan has no jurisdiction over the state permitting process. "I keep hearing the phrase 'undevelopable land'," he added. "If someone wants to say the Wilsons' land is undevelopable because of regulation, I think you have a situation where you have a regulatory taking of someone's property."

- In a slightly different situation, Kent Lawrence is looking to build a private treatment plant that would serve 12 houses in woods off Lovers Lane, just outside of Chestertown. The Kent County Commissioners have gone on record favoring the project because it would pick up 17 existing septic systems that are either failing or are in danger of failing.

Effluent would be discharged into the Chester River.

Lawrence, who calls his project Prestwick Woods, declined to comment.

### Nutrient, secondary impacts

"It would serve an adverse precedent," notes Chester Riverkeeper Tony Prochaska. "There would be a nutrient impact as you discharge into the river. And you're changing forested land into something urban, which would bring an increase in nitrogen. And there are secondary impacts that result from development – not just nutrients but sediment and other contaminants that typically flow off of urban landscapes into receiving waters."

A number of nearby residents are outraged.

As Alen Hollomon notes: "These are unreliable systems. No one can say they will work continually. After you hook all those houses up, the alternative is that you turn that stuff loose in the river."

Hollomon and his wife, Heidi Brown Hollomon, also worry that Prestwick Woods will open the door to similar projects throughout the county. "If Kent County wishes to encourage development, this is how to do it. Up until now, whether the land would perc or not has been a governing factor. This would remove that governance so that you can go anyplace and build anything."

Prochaska, meanwhile, is trying to broker an agreement between the town of Chestertown and the county that involves hooking up the failing systems to Chestertown's sewage treatment plant.

"If we can get support, that would be great," he says. "And we'll continue forward with the Elizabeth Wilson project to the bitter end. If we lose, at least we tried every possible way to prevent it."

– Ellen Uzelac

**Did You Know?**

...that Kent County has funding available through the Bay Restoration Fund to help property owners in critical areas upgrade their septic systems? For information, call the Kent County Department of Environmental Health, 410-778-1361....

## Upcoming SPECIAL EVENTS

Check out our website or call the CRA office for more information on future events and opportunities.

*Thursday, June 21*

### Annual Meeting

Join us for CRA's annual meeting at 7:30 p.m. at the Prince Theatre, 210 High St., Chestertown. Maryland Department of the Environment Secretary Shari Wilson is the keynote speaker. Riverkeeper Tony Prochaska will also introduce the winner of this year's Riverkeeper Guardian award. Refreshments will be served at 7 p.m. For details, call CRA, 410-810-7556.

*Saturday, June 30*

### Chester Tester Training

It's a great time to become a Chester Tester! Participation is at a record high, 50 volunteer testers. However, it's a big watershed and we could use your help. Please contact Watershed Coordinator Brent Walls for information about the training session, 410-810-7556.



# Local Marinas Come 'Clean'



Chester River Association is helping promote the state's Maryland Clean Marina program, a best practices initiative designed to help keep waterways free of harmful chemicals, excess nutrients and debris.

"It's a pretty complex program," according to Chester Riverkeeper Tony Prochaska. "We salute those that are involved. Any marina that implements best practices that reduce impacts to local waterways is helping us to help the river."

Five local marina operators attended a state Department of Natural Resources educational workshop here last winter. To date, more than one-third of the watershed's 33 marinas are participating in the program, which is voluntary. Bayside Landing Park, Kent County's largest marina with 42 slips, expects to be certified as a Maryland Clean Marina next year, according to county officials.

"In the recreational industry we derive our living off of recreational boaters. If you don't have clean water to play in, long-term our businesses are not going to prosper. And it's the right thing to do," notes Jonathan Jones, vice president and general manager of Haven Harbour Marina in Rock Hall. Jones was a member of the committee that helped get the program off the ground in 2002.

Statewide, 118 of an estimated 600 facilities have been certified as a Clean Marina or Clean Marina Partner. "It's been slow to take hold," Jones acknowledged. "But I believe all of the big players in the bay pretty much understand this is an important step for them to stay in business, attract customers and do the right thing."

Haven Harbour, with 210 slips, spends as much as \$30,000 in direct expenses a year to comply with the program. Activities that are targeted: vessel maintenance and repair; petroleum storage and transfer; sewage disposal; solid, liquid and hazardous wastes; stormwater runoff; and facilities management.

One extra benefit to joining the program: the public relations perk.

"People definitely respond when they see our Maryland Clean Marina logo. We have a sign out front. We use it in our advertising. And when they come here they notice the way our marina is kept," says Jones. "It's a selling tool."



Jonathan Jones

## Legislative Roundup 2007

There's good news and bad news to report.

First, the good. The Maryland General Assembly put a permanent ban on building a rubble fill within four miles of Unicorn Lake in northern Queen Anne's County. The ban had been a CRA priority. Local activists had been fighting the rubble fill for years amid worries that it would potentially leach hazardous materials into the lake and the Chester River. This year's win follows a victory in the 2006 legislature that imposed a three-year moratorium preventing the Maryland Department of the Environment from issuing a permit to allow the development.

Unfortunately, the Chesapeake Bay Green Fund, an innovative proposal for raising about \$130 million a year to curb polluting runoff into the bay, stalled in the Senate after passing through the House of Delegates on a 96-41 vote. Senate President Thomas V. Mike Miller shut the bill down in his campaign for a broader budget package that includes slots. The Green Fund would have been generated through an impervious surface fee on new development.

In response to the legislative outcome, CRA Executive Director Bob Parks noted: "We are thrilled that the Unicorn Lake bill passed. It is a victory for the Chester River. We have permanently prevented a harmful rubble fill from contaminating the headwaters of the river. We were disappointed by the failure of the Green Fund. It would have funded a vital program for our farmers: cover crops. But we'll be back next year and the Green Fund will be our top legislative priority."

### In other environmental news:

- The legislature passed the Clean Cars Act, which will require automakers to cut emissions of pollutants that cause smog and contribute to global warming by 30 percent as of 2016.
- The General Assembly passed legislation to cut phosphorus pollution to the bay by requiring low-phosphorus dishwashing detergent. The measure cuts the amount of phosphorus allowed in dishwashing detergent to half a percent, down from 8.7 percent. Maryland is the second state to enact such legislation, after Washington.

*Parting Thoughts*

# Riverkeeper: 'What a Year'

What an experience, what a year. Although I have a sound science background and 12 years of work experience in stream and river ecosystems, nothing can really prepare you for the job of Riverkeeper. Just the amount of knowledge required to function effectively in this position can be overwhelming. Also, becoming familiar with the "Who's Who" in government, laws, policies, procedures, and politics can make any sane scientist long for the opportunity to balance a tough chemical equation in a quiet room. But like all good scientists, I continue to pursue my goal: a healthy, vibrant river.

The greatest satisfaction during my first year as Riverkeeper was the opportunity to work with extremely dedicated people who donate their time, energy, and resources toward protecting and improving the quality of our watershed. That is not to say that I have not had my share of "run-ins" with certain folks, but it's all part of job. The one thing I do promise: I'm not willing to accept failure, period.

I strongly believe Chester River Association is gaining great momentum that will result in a measurable difference in years to come. In the last year, CRA initiated an aggressive advocacy plan that addresses both local and regional environmental issues. We have also made notable improvements to our monitoring programs, allowing us to identify the non-tidal tributaries that are contributing significant pollution loads to the river. Another big step toward improving the river's quality is our new agriculture program, designed to help farmers better understand state and federal programs that provide financial assistance in exchange for implementing sound conservation practices. We believe that healthy farms are extremely important; they are in the best interest of our community and our river. Overall, these vigorous new steps taken by CRA are imperative in developing a comprehensive plan that will reduce pollution entering the Chester.

Many people believe that measurable changes in the river will be realized overnight; this is far from the truth. The only way to eat an elephant is one bite at a time – so too, is the process of returning an aquatic ecosystem back to a healthy condition.

– Tony Prochaska, Chester Riverkeeper



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For more information visit our website:  
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