

# Riverkeepers petition the EPA

## GUEST COMMENT

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As a county bordered on three sides by water, Kent County is significantly influenced by the waters of Chesapeake Bay, Chester River and Sassafras River. As a result, the riverkeepers of the Chester and Sassafras have joined with other Maryland waterkeepers (12 total) to file a petition with the EPA to remove the authority from Maryland Department of Environment to administer permitting required under the Clean Water Act.

The Act gives the EPA the ultimate authority to monitor and control point source discharges of pollutants through the National Pollution Elimination System (NPDES) program. EPA has given the power of managing this program in Maryland to the Maryland Department of Environment. In the collective opinion of the 12 waterkeeper organizations in the state, MDE has been unable to effectively draft and enforce these permits to improve the state waters.

Locally, in the Chester River watershed, we see strong evidence of this. Genovique Specialties Corporation in Worton discharges effluent into an unnamed tributary of Morgan Creek which drains into the Chester River. Genovique is a manufacturer of organic chemicals used in plasticizers and synthetic lubricants. This company is currently operating on a discharge permit that expired in 2007.

The Chester Riverkeeper conducted water quality sampling in the fall of 2007 and found high levels of phosphorous and high levels of BEHP (a probable human carcinogen). Genovique's most recent permit, granted in 2002, does not authorize the discharge of either of these chemicals. Additionally, MDE did not sufficiently review the adequacy of the facility's storm water pollution prevention plan (SWPPP) prior to issuing the discharge permit. Not only did MDE issue the Genovique permit without first reviewing the SWPPP, but it also set effluent limitations in the permit that exceeded national effluent limitation guidelines. This particular situation is a fine

example of the multiple layers of responsibility that MDE has disregarded with respect to the NPDES program.

In the Sassafras River watershed the roadblocks to ensuring clean water are a little different than in the Chester. Over the past year there has been an enormous challenge in obtaining public information regarding the permitted facilities in the watershed. For example, in June, a Public Information Act request for field inspection reports for the Galena wastewater treatment plant was submitted and to this date a response has not been issued. Often when MDE does produce public records pursuant to a PIA request, the agency does so incompletely. In March the Sassafras riverkeeper requested a SWPPP for Kent Sand and Gravel Pit. MDE replied that they did not have a copy of this on record and that they would have to request a copy from the facility itself. The experiences of other waterkeepers in the state are similar.

Within the current petition waterkeepers suggest solutions MDE can adopt to strengthen its implementation of the permitting system. At the core of a successful program is consistent and aggressive enforcement of environmental laws. Enforcement actually starts with strong, enforceable permits and permit fees should be increased to actually cover the cost to the state of drafting and enforcing the permits. Additionally, fines, when imposed, must be significant enough to deter future violations. In Maryland, neither permit fees nor fines have increased in the 20 years that MDE has been implementing the NPDES program. If MDE raised permit fees and consistently sought penalties for violations, the regulated community would get a clear message that these laws are enforceable and non-compliance would result in strict

consequences.

Other suggestions to improve MDE's program include electronic availability of permitting and enforcement information that will facilitate transparency as well as save the state money in filing costs. The creation of an ombudsman office in Maryland would help citizens navigate government departments and obtain information more quickly and completely. These are only a few of the wide range of solutions suggested by the Waterkeepers of Maryland that would alleviate the many difficulties each of us has experienced in the Chester and Sassafras watersheds. We believe that by submitting this petition, EPA and MDE will be encouraged to implement the necessary improvements to the NPDES program so that all residents of Maryland (not just those in Kent County), are provided with clean water and a healthy Chesapeake Bay.