



# River Watch



Potomac RIVERKEEPER®

The Newsletter of Potomac Riverkeeper, Inc.  
Volume 6 Issue 1, Spring 2009

Shenandoah RIVERKEEPER®

## Our Grassroots Campaign is Working!

Our comments pushed Virginia in the Right Direction on the Construction Permit!

by Jeff Kelble

All our efforts are paying off! In December, I asked you to comment on the Construction General Permit issued to keep polluted runoff from construction sites from entering our rivers and streams, and your response was overwhelming!

### Virginia News

Our official comments nudged Virginia's permitting agency in the right direction! For the past year we have pushed for a tough and enforceable permit and for provisions requiring pollution control plans. We have also pushed for self inspection reports to be open to the public (as they are in every other type of permit in the Commonwealth). This is critical if the public is going to play an enforcement role in construction site pollution.

We would like to thank the four dozen members and citizens who posted comments in favor of improving Virginia Construction

General permit. Many of you specifically said that you support the Shenandoah Riverkeeper's requested permit improvements. This was a very important second step in our plan to improve the permit.

A few days ago, after testimony from me, our attorneys, and David Sligh, the Upper James Riverkeeper, the Virginia Soil and Water Conservation Board made a huge move and voted to amend the proposed permit so that construction site managers must share their

pollution plans and inspections with the public. Great move!

The story may not end here though. We were unable to get any movement from the board with regard to permits being issued in impaired waters in contradiction to the Clean Water Act. Attorneys representing Shenandoah Riverkeeper and Potomac Riverkeeper are currently evaluating the possibility of a legal challenge. Stay tuned...

*Below, an example of a good construction practice, keeping sediment trapped.*



## SAVE THESE DATES!

**April 21** — "Poisoned Waters" debuts on the PBS show Frontline at 9:00pm.

**April 22** — A special Earth Day celebration at Kiehl's in Georgetown, DC. More details to come!

**April 26** — Get the DIRT Out volunteer training session at the REI in College Park, MD from 10am-noon.

**May 13** — Get the DIRT Out volunteer training session at Arlington Central Library, VA from 7-9pm.

**June 7** — Our Annual Potomac River Gala aboard the *Cherry Blossom* in Alexandria, VA from 4-7pm.

**September 12** — Our second annual Shenandoah River Rodeo in Bentonville, VA.

### Annual Potomac River Gala!

Bid on weekend getaways, enjoy food and drinks, and meet people who share you're passion: saving the Potomac River!

We'd like to thank our sponsors: the Potomac Riverboat Company, Wiebenson & Dorman Architects, Barnes Vauze Architects, Calleva, and DrinkMore Water

Get tickets and more info online:  
[www.potomacriverkeeper.org](http://www.potomacriverkeeper.org)

# Don't Allow Dirt To Go Down The Drain...

The Stormwater Permit is Well-Intentioned, but Lacks the Specifics Needed to Work

by Damien Power

Potomac Riverkeeper and other environmental groups challenged Maryland's Department of the Environment (MDE) on March 19, 2009 over the new municipal stormwater permit issued by MDE to Montgomery County.

The stormwater permit correctly identifies that we have toxic amounts of stormwater (or polluted runoff) entering our water, but MDE is failing to hold the operators of the sewer system accountable for the runoff. Discharges allowed by the permit could be damaging to the Potomac River, its aquatic life, and (perhaps most importantly) all of us who live in the area.

The proposed permit fails to ensure the polluted runoff isn't overloading water bodies that are already deemed impaired. MDE acknowledges that sewer system discharges are currently overloading water bodies, and will require Montgomery County to develop and submit

plans that will establish pollution caps. This sounds good, but the permit does not require the county to **implement the plans**.

In addition, the permit closes out the public by failing to allow them to participate in and influence the permitting process. Once the permit is approved it

is final, and citizens will have little if any recourse should the county fail to do enough to protect the river.

For more information, go to [www.potomacriverkeeper.org](http://www.potomacriverkeeper.org) and click Press Releases under the "News" tab at the top of the page.

*Polluted runoff, pictured below, goes down our sewers and into our rivers and streams — often during periods of heavy rainfall*



## Success: Poop Plans Are Open to the Public!

by Damien Power

In March, a Maryland court ruled that every factory farmer must share his or her plan for keeping animal waste out of our rivers and streams. The formal name for the plan is a Nutrient Management Plan, or NMP, but I like to call it a poop plan. Because that's what it is.

No matter what you call it, the court decision makes sense: if a factory farmer has a plan to keep chicken poop out of my water, I'd like to look at it and make sure that it actually does keep chicken poop out of my water. Previously, these NMPs were sealed from the public and Potomac Riverkeeper, along with many other riverkeeper groups, fought to change that.

Without public scrutiny, regular people like you and I have no chance to improve our local rivers and streams. This is not the democratic way. Thanks to our efforts, and the court's ruling, the plans are open to the public and we can make sure they work!

# Riverkeepers Fight For Stronger Cleanup Standards At Home...

Potomac Riverkeeper Says Daily Pollution Caps Needed on Potomac and Anacostia Rivers

by Ed Merrifield

Potomac Riverkeeper, along with Anacostia Riverkeeper and Friends of the Earth, filed a lawsuit in January to challenge inadequate pollution caps that the U.S. EPA approved for the Potomac and Anacostia Rivers, which run through the nation's capitol.

We argued that EPA approved caps for sediment, bacteria, metals, and other pollutants in the Anacostia and Potomac Rivers fail to meet total daily maximum loads (TMDL's) or pollution caps.

The Potomac River contains

unlawfully high levels of fecal coliform, bacteria, metals, sediment and trash as a result of clean water permit violations, sewer overflows, and uncontrolled stormwater.

Overlooking the daily caps is dangerous. Until we can guarantee the safety of our waters in the D.C. area on a daily basis, we cannot guarantee the safety of the people who interact with our waters.

The lawsuit challenges EPA's approval of limits on discharges of sediment and suspended solids into the Anacostia. Though the agency correctly required

daily limits for these pollutants, it approved an approach that will allow more than half of the 7,000-ton annual limit to be dumped into the river during a single day's heavy rainfall. These limits fail to address a major source of the river's degradation: the approximately 40,000 tons of silt dumped into the Anacostia each year, clogging the eight-mile river and choking the life from its waters.

*Stay tuned for more details*

by visiting our website:  
[www.potomacriverkeeper.org](http://www.potomacriverkeeper.org)

or following us on Twitter:  
[twitter.com/potomacriver](https://twitter.com/potomacriver)

## ...And All Across the Nation!

Potomac Riverkeeper Comments on National Guide for Daily Pollution Caps

The U.S. EPA has submitted a draft handbook for developing watershed total maximum daily loads (TMDLs), or pollution caps. Potomac Riverkeeper, represented by Georgetown Law School's Institute for Public Representation, commented on the handbook. We have offered the following suggestions to make the handbook legal, inclusive, and effective:

### Legal:

*Currently, the law says that segments of watersheds must be prioritized separately. After all, the Anacostia River does not have the same problems that the North Fork of the Shenandoah River has. **The new system would grade entire watersheds as if they are the same. This is a violation of the Clean Water Act.***

### Inclusive:

*As a result, public participation would plummet when people can no longer defend their local river or stream. **There would be fewer public hearings for the entire watershed (14,000+ square miles) and longer distances mean fewer people are able to attend.***

### Effective:

*There are many different ways to develop, analyze, and evaluate how well daily pollution limits are working. **If you are using experimental methods, then you need stronger margins of safety in case they prove ineffective. The current Handbook does not clarify this, and we hope later versions do.***



## Seneca Creek: Done, Done, Done

One of Our Oldest Legal Battles is Resolved with MD Agreeing to Test the Water

by Ed Merrifield

In January, one of our longest legal battles came to an end after Maryland's Department of Natural Resources (DNR) agreed to test Great Seneca Creek for the presence of lead until the year 2019.

DNR allowed a gun club to operate in Great Seneca State Park for over five decades, much of the time as a concession of the state. During that time patrons fired lead shot directly into Great Seneca Creek (which is the largest watershed in Montgomery County).

Potomac Riverkeeper became involved in 2003 after one of our members reported the problem. Visits to the site revealed that piles of lead shot were six inches deep in some areas. The Riverkeeper reached out to the surrounding community, DNR, and the gun club to see what could be done about cleaning up the lead pollution, but DNR said the lead pollution was not a problem.

From that point until the present, DNR stalled and tried to out-maneuver us in an effort to elude responsibility. They even tried to deny responsibility after an environmental assessment revealed that groundwater beneath the firing area had concentrations of lead that were 4,000 percent more than the ecological screening value to protect aquatic life, and 667 percent more than the EPA's action level for drinking water to protect human health.

With our patience and determination, however, DNR shut the club down (2003), cleaned up the lead (2007) and agreed to check their work for ten years to make sure the job was done right (2009). Our actions made a difference! To learn about how our volunteers are helping us now, turn to page 8!



above, lead pellets around Great Seneca Creek

## Waterkeepers Win Big in Pesticide Case!

by Jeff Kelble

On January 7, 2009, the 6th Circuit Court of Appeals increased the Clean Water Act's oversight to include most commercial pesticides. The decision was a victory for our rivers and streams, and for all us who use them.

The Court held that the commercial pesticides were pollutants under federal law and therefore must be regulated under the Clean Water Act to minimize the impact to human health and the environment.

Several manufacturers and industry associations had joined the case in an attempt to broaden the Environmental Protection Agency's 2006 exemption. The Court told them in no uncertain terms that their products are harmful to human health and the environment, and therefore EPA must regulate aquatic pesticide applications under the Clean Water Act.

With this decision, virtually all commercial pesticide applications to, over and around waterways will now require National Pollutant Discharge Elimination System (NPDES) permits. The NPDES permits will allow for local citizen input, and provide for accountability and oversight.

Congratulations to San Francisco Baykeeper, Waterkeeper Alliance, and, Peconic Baykeeper and Peconic Soundkeeper.

# COAL :

No matter if you're naughty or nice, coal is in our big Potomac Watershed stocking this year. Ash spills, the fight for preventative regulations, tougher enforcement actions, and grassroots campaigns all have either happened recently or are currently underway. Take a look at what's going on and learn about what you can do.

## Administration Plans New Regulation Ponds

By SHAILA DEWAN  
Published: March 7, 2009

The Obama administration will propose new regulations governing coal combustion waste by the end of the year, and will act

March 9, 2009

The Obama Administration announces it will introduce new regulations governing coal combustion by the end of the year.

## MD coal ash spills into WV waterway

By Jessica Lilly

March 10, 2009 · In the wake of a huge coal ash spill now West Virginia is dealing with a spill of its own smaller.

March 8, 2009

The Maryland Department of the Environment says about 4,000 gallons of coal ash slurry spilled from a pipeline in Piedmont, MD.

washingtonpost.com > Nation > Green

**Green** Science . Policy . Living  
News About the Environment

## EPA to Scrutinize Permits for Mountaintop

By Juliet Eilperin  
Washington Post Staff Writer  
Wednesday, March 25, 2009; Page A13

The Environmental Protection Agency put hundreds of

March 24, 2009

The EPA puts hundreds of mountaintop mining operations on notice, saying it needs to review their impact on local streams and wetlands before they can move forward.

# GET INVOLVED :

Learn more and take action at the following websites!

WWW .  
potomacriverkeeper .  
org/

WWW .  
ilovemountains .  
org/

WWW .  
thedirtylie .  
com/



# Water Quality Double-Speak

by Mac Thornton

Recently, the *Washington Post* exposed disturbing fallacies in public statements by the DC Water and Sewer Authority (WASA) about drinking water safety. In the period 2001 to 2005, the amount of lead in some DC water reached hundreds of times the EPA recommended levels. A new study of blood tests of thousands of DC children found lead concentrations in many children during that time reached dangerous levels associated with behavior issues and lower IQ.

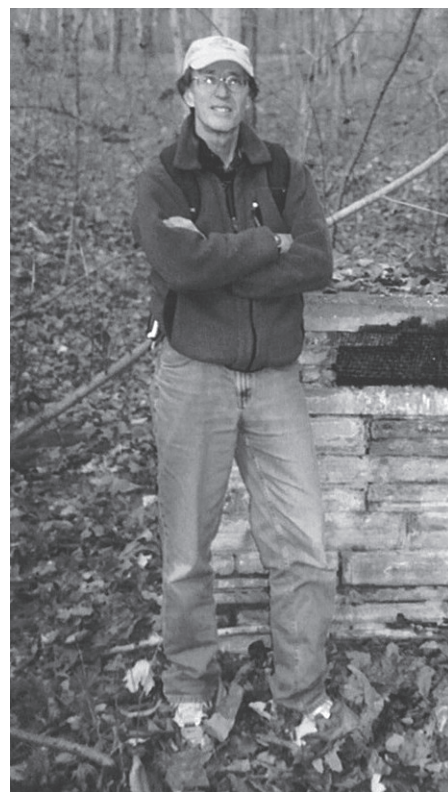
In 2004 and later, although officials acknowledged that the amounts of lead in city water were at record-breaking levels, they said repeatedly that they found no measurable impact on the general public's health. Note the clever use of the term "measurable." **Just because a health effect cannot be measured does not mean it does not exist.** WASA might as well have told people to drink bottled water, because even *that* would have been better than tap.

WASA's reaction: "Public health officials said this week that their earlier statements and reports did not try to suggest that the city's lead crisis had no impact on health but at the time they had no data to indicate a problem..." In other words, the lack of data, the lack of evidence, should reassure the public that the water is safe.

In the last two years, WASA repeatedly cited a 2007 article in a prestigious NIH Journal. The article concludes: "There appears to have been no identifiable public health impact from the elevation of lead in drinking water" in DC.

Here's where the story gets ugly. The *Post* revealed that **peer reviewers of this article had instructed its author, Tee Guidotti, to remove the above sentence as "scientifically dubious,"** but the article was published with the improper conclusion anyway. Then, it was revealed that **Guidotti was a paid consultant for WASA** and that his contract apparently required WASA to approve any research prior to publication. Guidotti failed to disclose his conflict of interest, as he was required to do.

In our mission to assure better water quality in the Potomac, the first step is for all of us, including the agencies, to be candid when there are problems. **Time to stop the doublespeak.**



*Mac Thornton has served on the Potomac Riverkeeper Board of Directors since 2003. In January of 2009 he became the Board Chair.*

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## Sally Davidson Joins Board!

Sally Davidson is Chairman of the Board of Clyde's Restaurant Group, which was founded by her late husband, Stuart. Clyde's has restaurants in Washington, DC, Maryland and Virginia. She was a legislative assistant for the late Montana Senator Lee Metcalf. Board experience includes many years on the Boards of the Washington National Opera and American Rivers. She is currently a Board member of World Land Trust--USA and a member of Rachel's Network. Her interests include kayaking, skiing, photography and gardening. She divides her time between Washington, DC and Dublin, NH.

## Buy Kiehl's Product, Help Potomac Riverkeeper!

Join us at the Kiehl's store in Georgetown for a special Earth Day celebration on April 22, 2009. Also, pick up their Superbly Restorative Argan Body Lotion at the Georgetown store or wherever Kiehl's products are sold. The lotion is Earth friendly, made with fairly traded, organic Moroccan Argan Oil. All of the net proceeds throughout the year will benefit Waterkeeper Alliance and Potomac Riverkeeper. Thanks!



GREATER WASHINGTON

Facebook: Fight for Clean Water in the Potomac River  
Twitter: twitter.com/potomacriver

United Way # 9335  
Commonwealth of Virginia Campaign # 8455  
Combined Federal Campaign # 87828

## Get Real Time Info!

On April 27 the Virginia State Water Control Board will decide two important issues:

- If Merck can increase its pollution cap
- If Virginia will institute new regulations to control poultry litter.

When issues like this are decided there is only a limited time to act.

**Don't read about these stories when they're over.**

Get involved and receive e-mail alerts from Potomac Riverkeeper!

Get on our list-serv. Send an email to [KEEPER@POTOMACRIVERKEEPER.ORG](mailto:KEEPER@POTOMACRIVERKEEPER.ORG) today!

It's the best way to improve your rivers and streams!

IN OTHER NEWS...

**YES! I want to protect and restore the Potomac River! Enclosed is my tax-deductible membership gift to help POTOMAC RIVERKEEPER and keep our Nation's River clean!**

☐ \$35 Regular   ☐ \$50 Family   ☐ \$100   ☐ \$250   ☐ \$500   ☐ Other \_\_\_\_\_

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☐ Please send me information about your Riverwatcher program today!

☐ Do not trade my name

☐ I want my donation to go to Shenandoah Riverkeeper

Phone \_\_\_\_\_

How did you hear about us? \_\_\_\_\_

Please make checks payable to **Potomac Riverkeeper**. Thank you!

1717 Massachusetts Avenue NW, Suite 600 Washington DC 20036

To become a member online, go to [WWW.POTOMACRIVERKEEPER.ORG](http://WWW.POTOMACRIVERKEEPER.ORG)

# Volunteer Opportunities!

Get the DIRT Out Trainees:  
We're Ready to Take your Reports!

[keeper@potomacriverkeeper.org](mailto:keeper@potomacriverkeeper.org)



If you have attended one of our Get the DIRT Out training sessions, we are ready to hear about what you have found on visits to construction sites. Take photos and visit our website to get our forms and more information! Happy hunting!

Shenandoah Riverwatchers:

Keep Your Eyes Peeled!

[jeff@shenandoahriverkeeper.org](mailto:jeff@shenandoahriverkeeper.org)



There are already reports of some fish with lesions and some dead fish out in the Shenandoah Valley. We're still a month from when we usually see problems—but let us know what you see. Let's be vigilant in fighting these problems!



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