

RIVER WATCH

The Official Newsletter of POTOMAC **RIVERKEEPER**® NETWORK

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EarthShare/CFC #87828

COAL ASH PONDS SEEP INTO POTOMAC TRIBUTARY

One year after Duke Energy's coal ash spill in North Carolina dumped 40,000 tons of toxic ash into the Dan River, Potomac Riverkeeper Network is grappling with the environmental and public health risks of coal ash waste in the Potomac watershed, and we're determined not to let a disaster like that befall our river. Coal ash is a waste product created from burning coal to generate electricity, and is typically stored in unlined "ponds" at coal plants, often near wetlands, rivers and neighbors' drinking water wells. The ash typically contains high levels of metals and other toxins like lead, arsenic, selenium and chromium, all of which can be harmful at high levels. Our investigation of Dominion's Possum Point Coal Ash Ponds in Virginia has exposed ongoing, illegal leaks of coal ash into the Potomac and potential risks to nearby drinking water that must be dealt with by the State of Virginia and Dominion Energy. We are working to make sure that coal ash pollution at Possum Point is cleaned up and the risks are addressed now, to avoid a "Dan River catastrophe" in the future.

After the Dan River spill in Danville, VA to Eden, NC, we would have thought the Virginia Department of Environmental Quality (DEQ) would take a hard look at similar sites in Virginia to make sure they weren't affecting the environment or threatening drinking water supplies. At the Possum Point power plant on the Lower Potomac at Quantico

Creek, for example, there are five old coal ash ponds – four of which are completely unlined and have been leaking pollutants into groundwater for almost thirty years. According to state data obtained from Dominion, potentially harmful metals – including cadmium, selenium, arsenic, and zinc – have been detected in discharges from the ponds, often at levels exceeding state water quality standards. We are also

deeply troubled that pollutants have been previously detected in Dominion's monitoring wells adjacent to residential properties that depend on private wells for drinking water. Yet as far as we know, the state of Virginia has not taken the next step by testing private drinking water wells around any of Dominion's coal ash ponds. Nor has the Virginia DEQ received Dominion's ground water monitoring data adjacent to residential wells at Possum Point since 2004, over 10 years.

Potomac Riverkeeper's own field investigation on Quantico Creek found clear evidence of undocumented seeps and discharges from the ponds that DEQ inspectors had missed during a site visit in 2014. Our first-hand discovery of ongoing pollution at the site lent further support to the Notice of Intent to

Sue letter we sent to Dominion last September after learning of Dominion's self-reported leaks and permit violations. Possum Point was starting to look a lot like North Carolina, where numerous drinking water wells have become contaminated



Satellite image of Possum Point from Southern Environmental Law Center.

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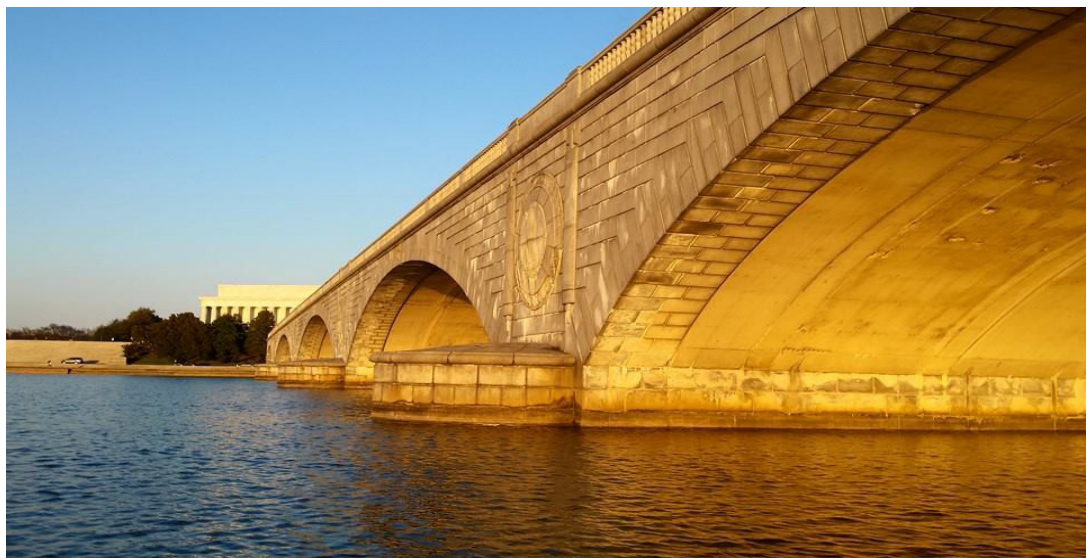
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A LETTER FROM THE PRESIDENT

Dear friends and members,

Hmmmmmmmmmm, hmmmmmm, listening to the hum here at Potomac Riverkeeper Network over the past three months has been a pure joy. We've been talking for nearly a year about our transition and our new staff and I will not get into that again. But I don't mind telling members that everything has come together over the last quarter in a way that I had never imagined. Our new Riverkeepers and Legal Director have seamlessly grabbed the baton and are running at full speed alongside our seasoned staff. And full speed is at a level that is blowing me away. The "hum" could not have come at a more important time as not only are we patrolling, finding problems, challenging permits, reforming government, getting agricultural problems solved and suing polluters in the same way we've always done, but the nose-diving political climate has put us on the defensive to protect the very laws we rely on to protect our rivers. As predicted in my Letter From the President in December 2014.

I will also share that the new staff here have brought very new tactics to town. I can admit that there has been an underlying understanding at PRKN that litigation is in many ways what gets results, and the threat of litigation can get equal results. But I have long wondered how much we are leaving on the table when our litigation victories do not get us as far as we had hoped, or when our laws are threatened. It's been more than once that we win a case, for example on a permit challenge, only to have the agency rewrite a permit that undoes our work. Or even worse, a law is passed to undermine the core ruling. As I am watching Brent, Dean, Mark and Phillip I'm seeing them approach our most intractable problems with very new techniques for us here at PRKN. And I'm talking about pure grassroots works and good old fashioned politicking.

While grassroots has always been a key for us in finding problems and covering a wide geographic area with few staff, we haven't always looked at grassroots movements as a way to positively affect regulations and permits. Admittedly PRKN has little to show from our political work.

But in situations like the Possum Point coal ash ponds, or Alexandria's long standing sewer overflows, I've been watching our staff work to apply positive pressure to local and state politicians directly and through grassroots action in order to get them, in turn, to apply pressure to the state or local governments. This tactic is resulting in local and state officials who have more latitude to tackle problems and political cover to do the right thing. In the past, we may have just sued over these two issues and we would probably have won them both. But what I'm seeing is that litigation AND political and grassroots pressure can be the key to solving problems and getting the most results. A nuance, but one that I'm paying VERY close attention to as we continue to determine what kinds of staffing we need to continue to build a world class organization capable of handling world class problems here in the Potomac Watershed. ■

Onwards and upwards,

Jeff Kelble, President



President Kelble learns about natural resource management at Gettysburg at annual Choose Clean Water Conference.

UPPER POTOMAC RIVERKEEPER®

38 NEW FACILITIES FOUND TO BE IN VIOLATION OF PERMITS

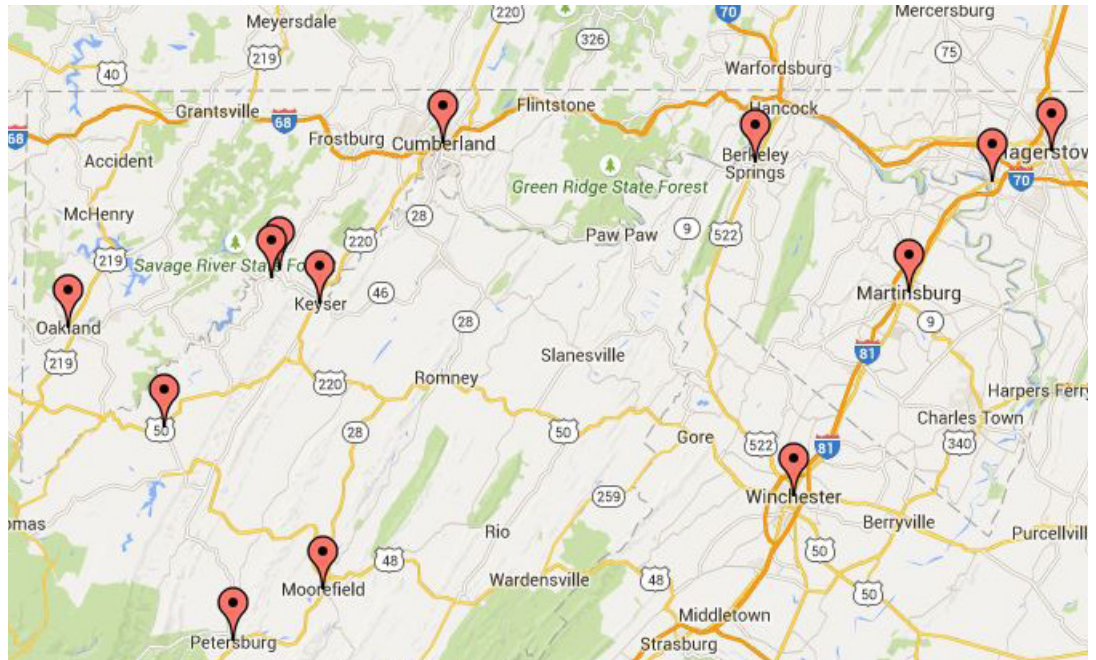
The Clean Water Act established a national framework for setting clean water standards and regulations in practice that would protect our rivers and streams and their use for drinking, fishing, swimming and boating. To do this effectively, the National Pollutant Discharge Elimination System (NPDES) permitting scheme was created. Although the NPDES system has not met the law's goal of eliminating pollution by 1985, it has reduced pollution from many sources.

The NPDES permit program requires all facilities that discharge pollution into state waters submit a Discharge Monitoring Report. These reports indicate if the facilities are below or have exceeded their pollution limits. If the pollution limits are exceeded, it is a violation of state and federal clean water laws. When a violation occurs, the state enforcement agency is required to act and resolve the pollution issues. Unfortunately, states, including Maryland, Virginia and West Virginia, have limited resources and cannot adequately monitor each and every facility's discharge monitoring reports in a timely manner. Recognizing the deficiency of the states to enforce clean water laws, Potomac Riverkeeper Network has developed a strategy to monitor compliance with those laws, something that we call a compliance sweep.

So what is a compliance sweep and how does it work? A compliance sweep is a proactive approach to assessing violations of pollution control laws before a major incident occurs, such as a fish kill or recreational users getting sick, and communicating with priority facilities to establish a path of resolution. A compliance sweep reviews all NPDES permits and their associated discharge monitoring reports in a watershed. The review process looks at several factors within a permit and ranks each facility based on the number of pollutants that are above the limits, the magnitude of each pollutant violation and how long those violations have occurred. To complete the ranking of priority facilities, the impact on the receiving water body is assessed based on current pollution loads, use and water volume.

The Potomac is a big watershed, measuring around 14,670 square miles, and has thousands of NPDES permits. With such a massive watershed, it was decided to divide the Potomac up into 4 regions; the Upper Potomac, the Middle Potomac (DC area), the Shenandoah and the Lower Potomac. In cooperation with the Mid-Atlantic Environmental Law Center and its partner, the Widener University Environmental and Natural Resources Law Clinic, a compliance sweep was conducted on the Upper Potomac in the fall of 2014.

This Fall's Upper Potomac compliance sweep found that 38 out of 291 facilities had severe violations of pollution control laws. The violations included discharges of sewage bacteria, heavy metals such as arsenic and lead, as well as chlorine, ammonia and other toxic substances in amounts that vio-



Map of facilities that have repeatedly violated their NPDES permit.

late federal law. The 38 facilities with severe violations became our initial priority list for the Upper Potomac. After an in depth file review, the priority list was further narrowed down to 11 facilities that required immediate action, while the remaining 27 will be addressed in the fall.

As Riverkeepers, we realize that there are circumstances that require an immediate adversarial approach. For compliance sweeps, however, we've discovered that this may not be the best tactic. For our approach, we have established a tiered communication policy. The first step is to communicate our pollution concerns with the facility. If there is no cooperation or development of a remedy, then we notify the State of our concerns. If the State does nothing to remedy the problem, then we escalate to legal action.

We found 38 out of 291 facilities had severe violations of pollution control

Since Fall, we have sent correspondence to seven facilities in our priority list. Each letter described the purpose of the compliance sweep, lists the violations and requests an open dialogue between facility and PRKN to explore how the violations could be addressed. In one case, after the facility's management learned about the violations, they worked with us to remedy the problem by offering to send a consultant from a waste water engineering firm to assess the complications. We also offered to help support their remediation actions through independent fundraisers as well as by reallocating existing grant funds to the projects.

The compliance sweep is a critical part of our assessment and enforcement programs for Potomac Riverkeeper Network. It helps us be more proactive in finding pollution sources and allows for cooperative opportunities among all parties to better protect our Potomac River. We will update our members on our progress with this project. ■

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STORMWATER BATTLE IN MONTGOMERY COUNTY CONTINUES

Stormwater pollution in the Potomac River and its tributaries continues to be one of the most vexing challenges when it comes to improving water quality in our watershed, and the State of Maryland's decision to fight Potomac Riverkeeper Network's recent state court victory on this issue sure doesn't help. After the second highest court in Maryland rejected the weak stormwater permit issued by the Maryland Department of Environment (MDE) for Montgomery County, we were hoping MDE and the County would see the light, and work with us to craft a new permit that included specific, verifiable requirements for reducing stormwater runoff into local waterways and meeting the EPA's standards for reducing downstream pollution in Chesapeake Bay. Instead, MDE and the Attorney General of Maryland Brian Frosh appealed the court's ruling in May, choosing litigation and delay over clean water.



Stormwater pollution runs off into the Potomac and its tributaries.

Stormwater runoff from streets, parking lots and other impervious surfaces in Montgomery County carries fecal bacteria, oil, chemicals, trash and nutrients from sediments into storm sewers that carry this polluted water directly to nearby waterways, including the Potomac River, Rock Creek, Cabin John Creek and the Lower Monocacy River. The result is degraded water quality that fails to meet minimum standards for protection of aquatic wildlife or recreational uses like canoeing, kayaking and swimming. To solve it, local governments need to work with businesses and residents to do a few basic things – screen out the big stuff like trash and debris, capture and filter the water to remove pollutants before they are dumped into these waterways, and monitoring to make sure the measures are working as planned.

The detailed plan on how to do this should be contained in what's called an "MS4" Permit, issued and overseen by MDE. Unfortunately, MDE and the County did their best to avoid the details, timelines and verification, and instead tried to pass off a permit that was at best, a "plan to make a plan" sometime in the future, without enough meat on the bones for the public to provide useful input. Their recalcitrance is bad public policy, and an insult to businesses and homeowners in our region who have voluntarily made efforts to reduce their stormwater impact. We were joined in our legal challenge by other local Keepers and other groups, and represented by Earthjustice. Similar challenges to equally lousy permits were filed in at least five other counties by Chesapeake Bay Foundation and other groups, all with a simple goal: compel Maryland regulators to write strong permits to improve water quality. We have a strong case to uphold on appeal, and we'll continue to work with our advocacy partners and communities who are making real efforts on the ground to solve the stormwater challenge and reclaim our waterways. ■

RIVERKEEPER ENGAGES IN ALEXANDRIA LONG TERM CONTROL PLAN PROCESS

In April PRKN sent formal comments to the City of Alexandria, responding to its early plans for reducing untreated sewage discharges into the Potomac River and nearby tributaries. The Clean Water Act mandates that Alexandria develop and carry out a "Long Term Control Plan" to deal with sewage overflows from its antiquated combined sewer system, with the goal of reducing or eliminating the overflows to improve water quality and protect the intended uses of the Potomac, including swimming, fishing and human powered boating.

PRKN has developed a series of recommendations, in collaboration with the Friends of Dyke Marsh, the Friends of Accotinck Creek, and several other groups on ways in which the city can most effectively eliminate the tens of millions of gallons of sewage being dumped into the river on an annual basis.

Key recommendations include; adhering to an enforceable implementation schedule that includes near, mid and long term goals, instead of merely setting an end date of 2035 for the entire plan; ensure that all future investments in water infrastructure meet the "fishable, swimmable" goal of the Clean Water Act, comply with EPA's restoration plans for Chesapeake Bay, and advance the goals of Alexandria's Eco-City Charter; and establish a community advisory committee to ensure that all affected stakeholders in clean, safe, swimmable, fishable water are included in this process.. Potomac Riverkeeper Network pointedly objected to the city's proposal to re-

direct raw sewage overflows from smaller tributaries such as Hunting Creek into the Potomac. As clean water advocates know all too well, "dilution is not the solution to pollution!" We want stormwater to be eliminated and mitigated, not displaced on other waterways.

We also urged the city to rethink its consideration of disinfecting sewage discharges using chlorine, and to develop short and long term cost projections to better align with permit time frames and budget demands. Last but definitely not least, we recommended that the city develop a watershed scale, holistic water quality management strategy that would integrate sewer overflow and stormwater planning with other citywide plans, such as the waterfront redevelopment. For instance, this would most likely include opportunities to save on overall infrastructure costs by combining water management improvements with improvements to roadways, bridges, and/or other in-ground infrastructure.

Potomac Riverkeeper Network is committed to working with other advocacy groups and the City of Alexandria as it continues to develop its Long Term Control Plan, due to be ready for public review in the summer of 2016. ■

SHENANDOAH RIVERKEEPER®

LAST YEAR'S FISH KILL FELT TODAY

Now that the summer has officially arrived, everyone wants to know how the fishing is doing on the Shenandoah River. Unfortunately, for this season, I am afraid it will be a bit of a slog, but there are a couple of encouraging signs that bode well for the fishery in future seasons.

In 2014, a quiet fish kill took out a significant number of fish (anywhere from 30 to 70 percent) in the 13" - 17" range. Virginia Department of Game and Inland Fisheries (VDGIF) biologists are still trying to assess the extent of the fish kill, but it was significant.

In addition, persistent algae blooms are still appearing on the Shenandoah and are affecting both forks of the river as well as the main stem. These algae blooms are the result of excessive amounts of nutrients (primarily phosphorous and nitrogen) entering the river from the over fertilization of agricultural fields and even private residences. The long strands of filamentous algae make paddling and rowing difficult as each stroke of the blade is wrapped with what looks like a mop head of green hair. Even worse, we have found evidence of blue/green algae coating parts of the river bottom threatening bottom dwelling creatures, which cannot tolerate the toxins released from the algae.

Of the two forks, there is anecdotal evidence that the North Fork has experienced a more significant reduction of smallmouth bass and red-breasted sunfish over the past year. While Paul Bugas, VDGIF Aquatics Manager, and his team of biologists have not completed their sampling efforts for this year, their preliminary findings are suggesting the same thing. It appears that the Main Stem may have been spared the most and as a result could provide the best fishing on the Shenandoah for 2015.

Due to heightened awareness of the presence of blue/green algae, the South River Science Team (SRST), who monitors and assesses the presences on mercury in the Shenandoah, is now collecting liver samples of smallmouth bass to ascertain the presence of the toxin, microcystins (also known as cyanoginsins).

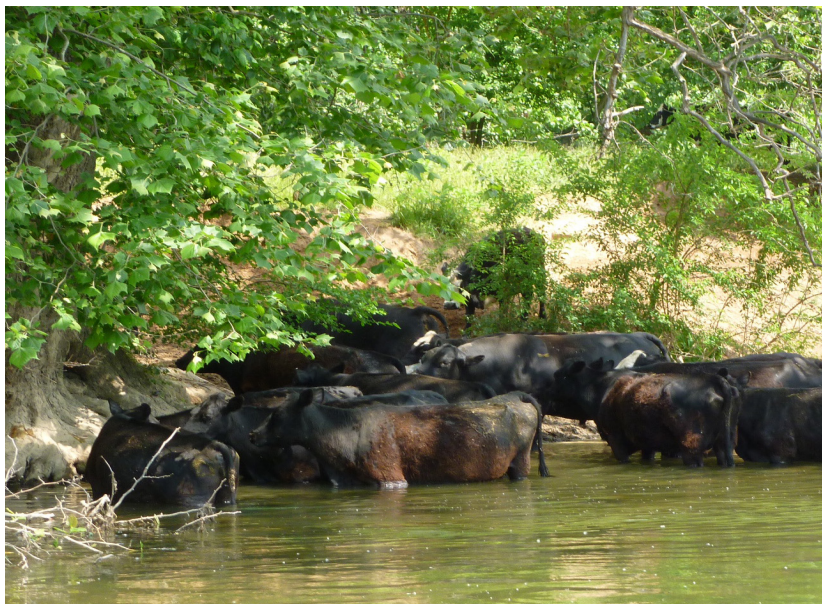
Microcystins can be produced in large quantities during algal blooms and pose a major threat to drinking water as well as the environment at large. The presence of microcystins in fish liver will prove that toxins are entering the fish and possibly contributing to the periodic fish kills we have been experiencing on the Shenandoah.

In April 2015, we met with USGS Dr. Vicki Blazer and doctoral candidate Ryan Braham to discuss their upcoming study in the Potomac watershed. In addition, USGS is conducting research on the two forks of the Shenandoah, collecting water samples for further analysis involving atrazine and glyphosate (found in fertilizers such as Roundup). We are interested in possibly collaborating with USGS on this effort by helping to collect samples.



So what's the good news? VDGIF Bugas also said the 2014 spawn was the second highest recruitment class in the last 18 years. And 2010 and 2012 also saw good recruitment years. The 2010-year class is responsible for most of the 11"-12" smallmouth bass that are currently in the river. Moreover, if you keep your fingers crossed and the creek doesn't rise - literally - the 2015 spawn has the potential to produce an outstanding recruitment class but those fry need to get through the month of June before the fisheries biologists will exhale a sigh of relief. ■

Spot a fishkill? Report an incident using our Water Reporter App!



Cattle herd intrusion increases Shenandoah's pollution and ecosystem degradation.

GET YOUR BUTTS OUT

Taken earlier this month, cattle intrusion on the river continues to be a problem in the Shenandoah region. Through our campaign, we are actively engaging with land owners and community members to create an open dialogue about the environmental degradation and health risks associated with herds of cattle in the river. Those environmental concerns include bankside erosion and sedimentation from when the cows hooves' trample the river bed, which also destroys the river ecosystem ecosystems. Not to mention, these herds carry with them dangerous bacteria and pathogens that can enter our drinking water supply and provide nutrients that fuel algae blooms.

15 of 73 herd owners have made moves to remove the cattle, and we hope to increase that number by the end of the year. ■

RIVER CLEAN-UPS

Recent photos from corporate engagement events with Deloitte and RBC. Thanks to all of our great volunteers!



COAL ASH PONDS SEEP

Continued from Page 1

and Duke has pled guilty to criminal charges resulting in a \$100 million fine.

Instead of taking swift action to force Dominion to clean up Possum Point, DEQ instead has given the company time to develop a quick and dirty plan for "closing" the ash ponds and they are proposing a "cap-in-place" approach. This essentially involves draining the water from the ponds and capping them, leaving the contaminated ash in the unlined pits where it's often been stored for decades. We oppose this plan, for the simple reason that it won't stop the pollution; it will merely hide it from public view. The best solution for coal ash ponds is to drain them, remove the ash and then dispose of it in lined landfills far from rivers and drinking water sources. This is the only solution that stops pollution from entering the Potomac River and residential wells.

Potomac Riverkeeper Network, represented by Southern Environmental Law Center on our pending lawsuit and investigation, is urging the agency to address the long history of contamination at the site and to make sure closure plans permanently halt the discharge of pollutants from these coal ash ponds. Our efforts have caught the attention of elected officials in Virginia, who are starting to ask their own questions and demand answers; in early June, Delegate Scott Surovell and Senator Linda "Toddy" Puller wrote a letter to DEQ, voicing doubts about the value of "cap-in-place" plans, and calling on state officials to offer drinking water well testing to Virginians living near Possum Point and possibly other coal ash sites around the state.

The support and concern of Virginia legislators is welcome, and should prompt DEQ to follow North Carolina's lead in requiring coal ash ponds to be cleaned up so they no longer pollute our rivers and threaten residents' drinking water. We encourage you to ask your lawmakers and environmental regulators what they're doing about coal ash in your communities. Stay tuned for more information. ■

PROGRAM UPDATES

POTOMAC RIVERKEEPER NETWORK

EPA & CORPS CLEAN WATER RULES LOBBY EVENT

President Jeff Kelble, along with partner organizations, spent a day on the Hill working to persuade lawmakers to support the EPA's final rule defining "Waters of the United States" that fall under the protection of the Clean Water Act. Jeff also reiterated our opposition to certain legislators' efforts to roll back these critical protections.

POTOMAC RIVERKEEPER

DC LONG TERM (SEWAGE OVERFLOW) CONTROL PLAN

DC Water submitted its revised plan to reduce sewage pollution from the city's outdated sewer system, which dumps over a billion gallons of untreated waste into the Potomac every year. The plan proposes to replace expensive but proven approaches like giant wastewater storage tunnels with increased use of green infrastructure, such as bioswales and tree pits. While the new plan is a big improvement over the city's 2014 proposal, we are concerned about the lack of detail and need for enforceable standards when relying heavily on green infrastructure solutions. Our goal is a strong plan that uses both green and traditional engineering to end the legacy of sewage pollution that has plagued the Potomac for decades.

UPPER POTOMAC RIVERKEEPER

MD COMPLIANCE SWEEPS

We continue to investigate and address serious permit violations committed by 38 facilities in the Upper Potomac watershed, with our response ranging from initial outreach to the polluter to the filing of a Notice of Intent to Sue against an upriver sewage treatment plant. The facilities in question discharged a range of contaminants from heavy metals to sewage bacteria at levels that degrade water quality.

MD ALLEGANY COUNTY COURT HEARING ON PERMIT LIMITS

With University of Maryland Law School Clinic students representing us, we argued in state court that the Upper Potomac River Commission wastewater facility violated its discharge permit by dumping water containing industrial solids into the Potomac. Decision still pending.

SHENANDOAH RIVERKEEPER

GET THE CATTLE OUT CAMPAIGN

We continue to make progress on our efforts to remove cattle herds from river access. To our knowledge 15 of 73 known cattle owners have changed their practices. In addition, we're now getting help from community members that are speaking out against this issue and that are reporting violations via our smart phone app, Water Reporter.

EVENT RECAP:

15th Anniversary Potomac River Gala

In one of our most successful years on record, Potomac Riverkeeper Network raised nearly \$60,000 from May 30th's annual Potomac River Gala! Thank you to everyone who sponsored and attended this event. We were thrilled to honor David Buente and Jim Wedeking with our annual "Protector of the Potomac" award for their exemplary work to protect the public's right to clean water in the Potomac and Shenandoah Rivers. We were also pleased to present Whit Overstreet with our "Volunteer of the Year" award. None of what we do is possible without our members, our partners, our sponsors and our Board. We are one team fighting for one big watershed. Let us continue to protect clean and safe water for today and tomorrow. See you next year!





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DON'T FORGET TO RENEW YOUR MEMBERSHIP

We need **you.**

Our work would not be possible without our members. Not only do our members give us the financial backing to protect our right to clean water in our rivers and streams, they also provide us with the standing necessary to engage in legal action against polluters. Thank you!

Up for renewal? Please return the enclosed membership envelope or sign up online at www.prknetwork.org.

Upcoming Membership Events

July 11, 2015 • Shenandoah River Rodeo
September 27, 2015 • World Rivers Day Paddle
October, 17 2015 • Shenandoah Harvest Hoedown

For more information visit our event's calendar online.