

RIVER WATCH

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

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RIVERPALOOZA 2017

2017 IN REVIEW – BACK TO BASICS, WITH A TWIST

Potomac Riverkeeper Network had one of its best years ever in 2017, at a time when national politics and federal regulatory rollbacks threatened to permanently rend the fabric of civil society and reverse decades of progress in cleaning up our rivers. Instead of letting the crisis rhetoric distract us, we stayed focused on our mission of swimmable, fishable, drinkable Potomac and Shenandoah Rivers accessible to all. We made remarkable progress on some of our most challenging issues, and we did it by embracing new partnerships, capitalizing on opportunities and honing our traditional litigation strategy to a fine edge. The new and increased threats we faced in 2017 demanded more of us, and we delivered with help from our advocacy partners, pro bono counsel, state legislators and, of course, our members and Board.

New and enhanced partnerships were critical to many of our successes this year, and will continue to bear fruit in 2018 and beyond. On the legislative front, we were instrumental in seeing two laws passed in Virginia that will directly benefit the Potomac River. The first requires the city of Alexandria to virtually eliminate its dumping of 140 million gallons of untreated sewage into the river annually by 2025, following decades of inaction. Once complete, this will address the last major source of sewage pollution into the tidal Potomac fifteen years earlier than planned, preventing over a billion gallons of raw sewage from fouling the river and threatening public health. We couldn't have done it without the tireless support and leadership of Virginia Senator Scott Surovell, and the expert help of Virginia conservation groups in Richmond who know the Assembly's legislative process inside and out, enabling us to build bipartisan support for a law that will lead directly to a cleaner Potomac.

The second law requires Dominion Power to assess alternative disposal options for toxic coal ash waste at its four sites across the state, including Possum Point on the Potomac. Potomac Riverkeeper's relentless investigation of coal ash pollution at Possum Point uncovered contamination of local residents' drinking water wells and prompted EPA to start an investigation into Dominion's dumping of thirty million gallons of coal ash wastewater into Quantico Creek. Despite this disgraceful track record, Dominion is pushing for permission to permanently dispose of 5 million tons of coal ash in an unlined pit next to the Potomac. The ensuing controversy led to legislation introduced by Senator Surovell that compels Dominion to consider other options, including recycling ash into concrete, removing it entirely to a lined landfill or some combination thereof. In this case, the combination of our Richmond allies and fellow Riverkeepers on the James, coupled with strong grassroots support in Prince William County, ultimately forced Dominion to stand down and let the law pass without a fight. The battle over coal ash continues, but thanks to this law we reset the terms of the debate and prevented

Dominion's cheap and dirty "cap-in-place" from becoming a reality, at least for now.

Strong partnerships are also a key element of the Upper Potomac Riverkeeper's campaign to stop a fracked gas pipeline from being built across Western Maryland and under the Potomac River to West Virginia. Maryland residents receive no benefit from TransCanada's pipeline, but bear the risk of construction accidents or pipeline ruptures in sensitive karst limestone that could contaminate the Potomac River or poison drinking wells with methane. Upper Potomac Riverkeeper Brent Walls sprang into action, building a grassroots coalition of national, state and local groups, from DC climate action pros to community activists and property owners who geared up to fight the eminent domain taking of their land for the pipeline route. The coalition carried out innovative and powerful actions, from encampments along the pipeline route to a "Hands Across the Potomac" event that drew over 400 people to join hands across the river in solidarity against



Potomac Riverkeeper Dean Naujoks investigating coal ash seeps at Dominion's Possum Point power plant. (Photo credit: Alan Lehman)

Continued on page 7



WHAT YOU CAN DO

Join us on December 19th in Hancock, Maryland as we call on Maryland regulators to deny two state permits needed for the project to proceed. Our No Potomac Pipeline campaign is growing stronger every day, but we need your voice to convince Governor Hogan that this project only benefits TransCanada Corporation and is bad for Maryland. Check our website or Facebook for more information on the public hearing and other actions we're planning to stop this risky project from moving forward.



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A LETTER FROM THE PRESIDENT



DEAR MEMBERS,

Last month's election results in Virginia may have profound results on our work in Virginia, and possibly other states, over the course of the next few years.

For several decades we've relied on the US EPA and the Federal government to push and prod and encourage states to move forward in implementing the Clean Water Act and associated clean-up plans. The Chesapeake Bay Cleanup is a prime example. For about five years, since this congress turned so vitriolic towards the EPA, we've seen severe weakening in EPA's resolve and influence. For example, we haven't even been able to get EPA to overrule Virginia's decision to ignore a decade of severe algae blooms in the Shenandoah River. EPA had become terrified because the political winds were not in its favor and had essentially retreated into a shell, hoping the next president and/or congress wouldn't rip its guts out.

Enter Scott Pruitt, environmental hit man. Since Mr. Pruitt was named to the head of EPA, the agency has turned toxic, and Mr. Pruitt is, literally, ripping its guts out. Not only is Mr. Pruitt turning internal policies against environmental progress, he's turning them entirely in favor of business handouts. I'd go so far as to say that the very culture of EPA is in danger of disintegrating.

Recently, EPA staff dis-invited PRKN from coming to their headquarters for an annually held, government-run, nonprofit fundraising day. EPA cited "conflict of interest" as the reason we weren't welcome. Were they saying our mission to advocate for clean water in the Potomac and Shenandoah conflicts with EPA's mission to achieve swimmable, drinkable, fishable rivers? If that is a conflict of interest, then things are much worse than we feared. Luckily, EPA reconsidered after multiple groups came forward to express concern and we were re-invited.

But there seems also to be a bright side to this, which is why I'm writing to you. Like a phoenix, each state seems to be rising up out of the ashes and stepping into the void. Masses of people are showing up to demand clean water when it's threatened. Students are getting arrested in the name of clean water. There are protests in Richmond over Dominion's irresponsible behavior at Possum Point. Hundreds are showing up to join hands across the

Potomac in Shepherdstown to resist a useless and dangerous gas pipeline across the Potomac. Environmental groups across the nation are reporting sharp upticks in membership, volunteer rates, activism and funding. If raising FIVE times the money a month ago at our Gala than we raised two years ago is any indication, we are experiencing this, too.

And perhaps the most encouraging signal of all is coming from Virginia's Legislature. This is a legislature normally loath to pass environmental laws, yet it passed two last year with complete bi-partisan support. One of our bills was strengthened by Virginia Republicans. It was awesome to watch.

At our Gala we were honored to have Virginia Senator Scott Surovell in attendance, among several important legislators. Senator Surovell went out of his way to say to me, "Jeff, don't stress about the Federal government's problems, we don't need Donald Trump or the EPA if we have the right people elected at the state level. Federal law empowers us to do everything through state government - we just need the right leaders in place who are willing to do the work, appropriate the money and enforce the law."

And do we have the right leaders in place? We think so. We just learned that 14 of the 16 legislators in Virginia who knocked off incumbents had vowed to take no Dominion Power money.

I urge our members to get their chin up, stay tuned in, read our action alerts and get involved with what's going on. We've reported over the last year to members that we're diving deeper and deeper into local action because that's where our success is. And the chickens are coming home to roost.

Sincerely,

Jeff Kelble, President

POTOMAC AND OTTAWA RIVERS TWINNING INITIATIVE

On September 21, Potomac Riverkeeper Network Vice President Phillip Musegaas was honored to join Ottawa Riverkeeper Meredith Brown and dignitaries from the Canadian and U.S. Governments in Ottawa, Canada to officially "Twin" our capital rivers. This declaration formally launches a long term initiative to celebrate the incredible history and natural heritage of our two rivers, share strategies on how to protect these treasured waterways, and join forces to pursue our common mission of fishable, swimmable and drinkable Potomac and Ottawa Rivers for all. For us this is the beginning of a beautiful friendship!



UPPER POTOMAC RIVERKEEPER[®]

FIREFIGHTING CHEMICALS THREATEN MARTINSBURG WATER SUPPLY AND OPEQUON CREEK

Nearly six million people rely on public water supplies within the Potomac River Watershed to provide them with clean drinking water. Forty years after the passage of the Clean Water Act and Safe Drinking Water Act, we rightly expect our water to be safe and healthy for ourselves and our children. Unfortunately, events have come to light over the past several years in Martinsburg, West Virginia that raise questions about how seriously public water utilities and the EPA take their responsibility to notify the public when their water may be unhealthy to drink. It also reminds us of the critical role Riverkeepers play in investigating and publicizing threats to water quality and our communities.

This story begins with EPA issuing a lifetime health advisory (LHA) in 2016 that gave a limit of 70 parts per trillion for PFOS and PFOAs, two chemicals commonly used in firefighting foam and sometimes found in drinking water. While this advisory does not set legally enforceable standards, it is typically used by public water utilities to alert their customers and upgrade their treatment to prevent long term exposure through drinking water.

So what exactly are PFOS/PFOAs? Synthetic fluorinated organic chemicals that were used in many industrial and consumer products, but most notably in a firefighting agent called Aqueous Film Forming Foam (AFFF) that has been widely used by the Air Force since 1970. AFFF has proven to be particularly good at extinguishing petroleum-based fires, including aircraft fuel. Most aviation military bases routinely conduct firefighting training in a specific location, which allows AFFF residue to build up in soils and leach into groundwater after years of use.

Initial research studies have indicated that PFOA/PFOS can cause reproductive and developmental, liver and kidney, and immunological effects in animals, and may be carcinogenic. PFOA/PFOS chemicals also bioaccumulate, so long term chronic exposure at low doses is just as much of a threat as short term acute exposure.

In response to EPA's advisory, the U.S. Air Force reported that 203 military bases around the country were being inspected, and surface water and drinking water sources were impacted near 26 of them, including the Big Springs Filtration Plant for the City of Martinsburg, located near the 167th Air National Guard facility. Local streams flow into Opequon Creek, a tributary of the Potomac River and are connected to groundwater flow through the limestone geology that underlies the area. In May 2015, Martinsburg officials were alerted that drinking water testing showed PFOA/PFOS levels higher than the LHA, prompting them to shut down the filtration plant and switch to a backup water source. Current thinking is that AFFF from the airfield leached through the limestone "karst" geology and into Big Spring Deep Well, resulting in the city of Martinsburg's water supply being tainted with potential long term exposure of PFOS/PFOAs.

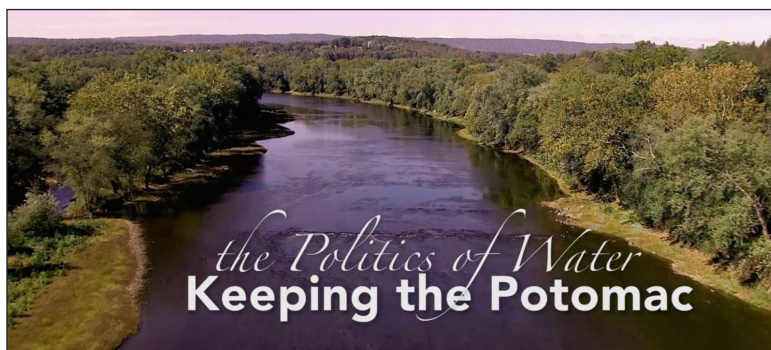


Aerial photo of Big Springs Filtration Plant for the City of Martinsburg, located near the 167th Air National Guard facility. (Photo credit: Brent Walls)

Most alarmingly, city officials did not tell residents that these harmful chemicals were detected in their water supply, or that the City had switched to using an alternate, backup water source. This vital information was kept from the public for over two years, along with annual water quality reports to residents that were withheld in 2016-2017. Local media first reported on it in spring of 2016 and summer 2017.

As it stands now, the City of Martinsburg has almost completed the \$1.5M in upgrades to the Big Springs Filtration Plant, in spite of the Air National Guard's failure to honor its promise to compensate the city after it admitted liability in early 2017.

At this point, you may be shocked at the drinking water issue, but wondering how this might affect the Potomac. Upper Potomac Riverkeeper Brent Wall's investigation found that West Virginia Department of Environmental Protection (DEP) only conducted a single, limited investigation of PFOA/PFOS contamination on 9 private wells and nearby tributaries of Opequon Creek. DEP's analysis was plagued with sampling errors, casting doubt on its conclusion that wells and streams were free of contamination. Brent is continuing to dig, comparing notes with Riverkeepers in New York who have found PFOS/PFOAs in their watershed and mapping out the next phase of our investigation. The people of Martinsburg deserve answers, and have a right to clean drinking water and government officials who have their best interests in mind. Stay tuned for more...



KEEPING THE POTOMAC: THE POLITICS OF WATER WINS FILM AWARD!

At the beginning of this year, American University's documentary *Keeping the Potomac: The Politics of Water* aired on Maryland Public Television, and in May, it aired again during Chesapeake Bay Week.

Made by 568 Productions for the Center for Environmental Filmmaking at American University, nine students followed our three Riverkeepers over the course of three months, documenting their work on the river.

At this year's American Conservation Film Festival the 2017 Student Film Award went to filmmakers Sam Sheline, Kent Wagner and Elizabeth Herzfeldt-Kamprath. We congratulate them and thank them for making such a beautiful and inspiring film to raise awareness about our work. Go to keepingthepotomacfilm.com to check out the film.

POTOMAC RIVERKEEPER[®]

FIGHTING ON ALL FRONTS TO PROTECT THE POTOMAC FROM COAL POWER PLANTS' TOXIC POLLUTION

In the latest example of federal environmental rollbacks affecting the Potomac River, the Maryland Department of Environment (MDE) blindly followed EPA's lead and failed to set strict limits on arsenic, mercury, lead and other toxic metals discharged from the Morgantown and Dickerson coal-fired power plants into the Potomac in their most recent Clean Water Act permits. In August the EPA announced it was delaying enforcement of new national standards designed to vastly reduce toxic wastewater discharges from coal plants finalized by the Obama administration in 2015, in order to review the economic burden of the new regulations on the electric power industry. Never mind the fact that the 2015 limits on this poisonous waste stream are based on years of scientific analysis, industry research and careful peer review.

Instead of stepping up to fight for Marylanders and the Potomac, MDE stepped aside and let EPA have its way. You won't be surprised to hear that we rolled up our sleeves and got to work, teaming up with Sierra Club to fight MDE's lousy permitting decision and launching an investigation of Morgantown's operations.

EPA's 2015 "Effluent Limitation Guideline" Rule was developed to deal with the discharge of toxic metals and other pollutants removed from coal plants' air emissions in response to more protective air pollution standards issued over a decade ago. The same metals that were being "scrubbed" from coal plant smokestacks were being dumped with minimal treatment into our rivers and oceans, eventually forcing EPA to act. Coal-fired power plants have the dubious distinction of contributing the greatest amount of toxic pollutants to surface waters of any industry in the U.S. Without strict rules to curb this pollution, they will continue to dump millions of pounds of toxic metals into our waterways every year, threatening our drinking water, poisoning fish and crabs and degrading the Potomac River and Chesapeake Bay. Technology to treat and remove metals from this waste stream is readily available and affordable – in fact, NRG, the owner of these coal plants, has estimated that complying with the EPA Rule would cost less than 1% of its annual revenue.

The solution is clear: the law and science demand that protective limits on toxic metals must be required as soon as possible. Further delay only benefits the coal industry and puts the public and our rivers at risk.



Aerial patrol over the Morgantown power plant in late August revealed rust colored discharges from a metals waste cleaning pond (Photo credit: Alan Lehman)



Potomac Riverkeeper Dean Naujoks patrolled the Potomac River near the Morgantown power plant in October. (Photo credit: Alan Lehman)

PRK and Sierra Club submitted detailed comments to MDE, calling for the new permits to include strict limits on these harmful metals consistent with EPA's 2015 Rule, and pointing out that Morgantown (Charles County) and Dickerson (Montgomery County) have routinely discharged arsenic and selenium in amounts that far exceed the EPA's proposed limits over at least the past five years, with untold impacts to the Potomac. Dickerson discharges upstream of at least one drinking water intake for the DC Metro area, and Morgantown discharges into a section of the Potomac that provides critically valuable spawning habitat for the largest striped bass fishery on the Atlantic coast. PRK is prepared to take MDE to court to fight for a stronger permit that protects the river and our drinking water.

Meanwhile, PRK conducted an aerial patrol over the Morgantown power plant in late August that revealed rust colored discharges from a metals waste cleaning pond, along with oily sheens in the plant's cooling water discharge canal that undoubtedly flowed into the Potomac River. PRK filed a formal complaint with MDE and requested a meeting, but at the time this article went to press we'd heard nothing. In October, Potomac Riverkeeper Dean Naujoks took the PRK patrol boat downriver to get a firsthand look at the plant, and deployed a drone to look for additional

pollution. Our preliminary investigation indicates that this out-dated coal plant may not be complying with its current permit and may have legacy coal pollution issues that could lead to citizen enforcement action by PRK.

Our bottom line: If EPA and Maryland are not going to protect the Potomac River, PRK will do everything in its power to fight for science based limits to protect the Potomac. And we will use the citizen enforcement tools Congress granted us when the Clean Water Act was passed 45 years ago to ensure fishable, swimmable rivers for everyone in the Potomac River watershed.

SHENANDOAH RIVERKEEPER[®]

UPCOMING HEARINGS WILL DECIDE FATE OF ATLANTIC COAST PIPELINE

Over the past two years, a diverse coalition of environmentalists, property rights advocates and community groups voiced its unwavering opposition to Dominion's Atlantic Coast Pipeline project. Shenandoah Riverkeeper sounded the alarm about how this unnecessary, 600 mile pipeline would threaten the pristine headwaters of the Shenandoah, destroy valuable forest habitat, degrade mountain streams and threaten private property rights across Virginia. On December 11 & 12, the Virginia State Water Control Board will consider these arguments and others, pro and con, before they vote whether to grant the critical Clean Water Act certification needed to greenlight construction.

The Board hearings in December follow on the heels of two recent setbacks to pipeline opponents. First, the Federal Energy Regulatory Commission (FERC) granted its approval late on a Friday night in October, a sadly typical tactic used by federal agencies when they are leery of negative press on a particularly stupid or controversial decision they've just made. A few days later, the Virginia Outdoors Foundation approved the conversion of ten conservation easements to Dominion, turning previously protected land over to build the pipeline. The Foundation received \$4 million in land swaps in return – in our view, a paltry sum that is far outweighed by the bad precedent set by the Foundation. Despite clear evidence that the conversion ran afoul of state law, the Foundation chose not to fight, and sent a message to future land owners to think twice before entering into a supposedly “permanent” conservation easement with it in the future. Apparently even those are for sale.



This leaves the Water Control Board as the last hurdle Dominion faces in Virginia, and SRK's last hope to block it before heading to federal court.

If successful, the massive pipeline would carry fracked gas across three states to a terminal in North Carolina, where much of it will be exported overseas. Dominion has received unqualified support from lame duck Governor McAuliffe, and unmitigated anger and resistance from the Allegheny-Blue Ridge Alliance (ABRA), a coalition of 52 organizations, including SRK and Southern Environmental Law Center, bent on stopping it.

The anti-pipeline argument is grounded in three basic assertions.

First, the Commonwealth of Virginia has the legal authority to stop this project, and the legal and ethical responsibility to determine whether it complies with state law. Section 401 of the Clean Water Act was written specifically to provide states the power to block federally licensed projects that impact state waters, if it's shown that the project will violate



protective state water quality standards. Despite the Governor's protestations to the contrary, Virginia has the power to protect its precious natural resources and its citizens from a bad project, no matter what the feds say. New York State is doing just that, using Section 401 to block two recent pipelines because of concerns over risks to state waters. And New York is going to court to fight the feds' attempt to overrule it in the industry's favor. What is Virginia afraid of?

Second, the Board must deny the 401 if it has not received enough information from Dominion and DEQ describing how severe the impacts will be, and that's exactly what's happened in this case. Instead of doing its own comprehensive permit review, DEQ punted and relied on a generic, nationwide Army Corps of Engineers permit to assess the impacts of over a thousand stream crossings needed to build the pipeline. The devil is in the details, and DEQ clearly chose to avoid any demons when they allowed Dominion to check the boxes on the general permit instead of the site-specific review a project of this scope demands. DEQ's acquiescence means the Board doesn't have the info it needs to make an informed decision, and should deny the 401.

Third, DEQ has not given the Board critical information on how the project will manage stormwater and erosion related water pollution during construction. Instead, DEQ is planning to review those requirements after the Board has voted whether to approve the 401, in an entirely separate process. We fail to see how the Board can make a reasoned decision about the water quality impacts of a 600 mile pipeline project when two of the biggest threats to waterways, stormwater and erosion, aren't even provided to Board members prior to their vote.

WHAT YOU CAN DO

Help us send a message to the Board and Governor McAuliffe – come out to the hearings on December 11 & 12 and demand they put Virginians and our environment ahead of national politics and Dominion influence-peddling. Check our Facebook page for updates.

The meetings are at Trinity Family Life Center, 3601 Dill Road, Richmond, on Monday, December 11, 2017, and Tuesday, December 12, 2017, at 9:30am

LAW & WATER

A GALA EVENT TO BENEFIT
POTOMAC RIVERKEEPER NETWORK

GALA RECAP

On November 3rd, 2017, over 250 friends, guests and supporters gathered at the historic Old Ebbitt Grill to celebrate the 45th anniversary of the Clean Water Act and all those who have played a part in its enduring success. This year, we had the privilege of honoring three of the first implementers of the Clean Water Act – Bruce Diamond, Ridge Hall and Susan Lepow. The evening also included a delicious watershed dinner and live tunes from King Soul band!

We were blown away by the commitment of so many – especially our gala sponsors, host committee and board. **Thanks to everyone's generosity we raised a record \$220,000!** We would like to extend a heartfelt thanks to Sally Davidson and Clyde's Restaurant group for their unwavering support and generosity. We could not have done this without you all!

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GOODBYE AND THANK YOU, MARIA!

We are sad to see our Vice President of External Relations Maria Barry depart as she takes on her new adventure as Chief of External Relations at Issue One, a nonprofit that advocates for bipartisan reform around money in politics. Maria has emboldened and revitalized PRKN's fundraising and marketing efforts since day one, and her legacy will live on through our annual gala, where she more than quadrupled the event's revenue. We will miss her creativity, heart and strategy. Best of luck, Maria!

RIVERPALOOZA 2017

From June through September 2017, PRKN hosted a series of thirteen on the water adventure events with all three Riverkeepers, covering all corners of the stunning Potomac watershed! Whether participants rafted with us at Harpers Ferry, camped with us at Paw Paw Bends or celebrated with us at National Harbor on World Rivers Day, RiverPalooza 2017 helped provide a hands on connection to the Potomac and Shenandoah for over 500 participants.

RiverPalooza is a Waterkeeper Alliance SPLASH Series event, presented nationally by Toyota and locally by the National Park Service, MOM's Organic Market, Downriver Canoe Company, Front Royal Canoe, Harpers Ferry Adventure Center, River & Trail Outfitters and River Riders.



Thank you to the incredible enthusiasm and generosity of our sponsors, outfitters and local partners!



Shenandoah Riverkeeper Mark Frondorf on patrol for cattle in the Shenandoah River.



Upper Potomac Riverkeeper Brent Walls investigating paper mill wastewater discharge in the North Branch of the Potomac

2017 IN REVIEW (CONT'D)

this needless, risky project. More events are planned, volunteers are being trained and the lawyers are digging into their legal arguments getting ready for the project permits that will be decided in early 2018. Our coalition is united in its demand for Maryland's Governor Hogan to defend his state's interests and stop this pipeline, echoing our grassroots success as part of the campaign that rallied successfully to see fracking banned in Maryland.

Across the Blue Ridge, our work to reduce nutrient pollution and harmful algae blooms on the Shenandoah River took two big steps forward in 2017. Shenandoah Riverkeeper teamed up with the ace data crunchers and lawyers at Environmental Integrity Project to highlight the glaring loopholes in the failed regulatory approach to managing millions of pounds of livestock (cows, turkeys and chickens) manure produced in the Valley every year. Our joint report zoomed in on four counties in the Valley and showed how weak regulations and shoddy enforcement have led to ongoing manure pollution that kills aquatic life and severely hampers river recreation and the businesses who depend on it. With the report in hand, we will be pushing for new legislation or regulations in 2018 to close the loopholes and find solutions to this chronic problem.

And yes, we did file several strategic lawsuits in 2017, including our long overdue federal court suit against EPA for its failure to overrule Virginia when the state decided once again not to list the Shenandoah as impaired for nutrients and algae. "Listing" the river would lead to a cleanup plan and strict limits on nutrient runoff from farms and wastewater plants that would reduce pollution, improve water quality and protect one of our most beautiful rivers. After eight years and thousands of photos, letters and scientific data submitted to Virginia showing the degradation to no avail, we had no choice but to take our fight to court.

This only scratches the surface of what we accomplished this year, and the groundwork we're laying for future success. We didn't have space to tell you about the \$500,000 oyster restoration project on the lower Potomac we helped fund through one of our lawsuits, or the commitment by Alexandria to clean up decades of toxic coal tar seeps into the Potomac River. We expanded our presence in 2017, moving from the courtroom to the House of Delegates and the local high school auditorium to a bridge across the Potomac. Our work continues to evolve as we face complex new challenges and old nemeses, but one thing remains clear: If we do what is right for the river, we will succeed. Stick with us to see where we go in 2018!



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