



POTOMAC RIVERKEEPER, INC.

1615 M St. NW, 2nd Floor, Washington, DC 20036 - www.potomacriverkeeper.org - (202) 429-2603

FOR IMMEDIATE RELEASE

August 6, 2014

Primary Press Contact:

Jeff Kelble

President and Shenandoah Riverkeeper

Potomac Riverkeeper, Inc.

Direct Phone Line: (540) 533-6465

jeff@potomacriverkeeper.org

**Shenandoah Riverkeeper Files Notice of Intent to Sue EPA
for Failure to Address Algae in Shenandoah River**

WASHINGTON, DC – Public outcry arose last week over a water ban in Toledo, Ohio due to toxic algae blooms. But the threat from nuisance or toxic algae is not confined to the Midwest. Shenandoah Riverkeeper has worked for four years to push the Virginia Department of Environmental Quality (DEQ) and the US Environmental Protection Agency (EPA) to officially recognize severe annual algae blooms in the Shenandoah River and to begin implementing plans to eliminate them, but has found that it must now resort to legal action.

This week, Shenandoah Riverkeeper, represented by Earthjustice, filed a notice of intent to sue the EPA for its failure to act in the face of this threat. EPA has failed to carry out a non-discretionary duty to either approve or disapprove of Virginia's list of waters deemed impaired under the Clean Water Act, which was published in 2012 without an acknowledgment of the Shenandoah's algae problems. "We are losing hope of voluntary action by the agencies responsible for safeguarding our river and its users, and so we have nowhere to turn but our judicial system," explains Jeff Kelble, the Shenandoah Riverkeeper and President of its parent organization, Potomac Riverkeeper Inc. Listing would have triggered specific government plans to combat algae pollution on the Shenandoah. Omission from the list means delay in addressing a serious and growing problem.

Comprising about one quarter of the Potomac Watershed—which provides drinking water and recreation for millions of residents from its mountain headwaters to the Chesapeake Bay—the Shenandoah River has experienced nearly year round algal blooms for the last ten years. The Shenandoah's disruptive algae blooms are mainly caused by intense manure use on the Valley's agricultural lands and emerging issues with urban and suburban runoff.

Since 2010, Shenandoah Riverkeeper has collected hundreds of complaints from river users and submitted most of them to the Virginia government in hopes it would recognize the problem and take direct corrective action. Shenandoah Riverkeeper continues to receive complaints from river users about slimy green growths of algae, which cause bad odors, interfere with swimming, fishing, paddling and boating, and are contributing to a decline in the health of fish and aquatic ecosystems in the river. The Shenandoah River is an iconic fishery featured nationally in books and fishing shows, and tourism dollars from fishing and other water sports are an important driver of the local economy.

In 2012, Shenandoah Riverkeeper officially requested that Virginia DEQ designate all reaches of the Shenandoah River as impaired by algae on Virginia's "303(d) list," the list on which states are required to designate water bodies that fail to meet water quality standards under the federal Clean Water Act. Virginia is required by the Act to consider all information about stream impairments when updating its list. While Virginia has taken account of similar evidence in prior decisions to list other water bodies as impaired, it has refused to list the Shenandoah as impaired despite the ample evidence submitted in this case. In December, 2013 EPA compounded Virginia's inaction by failing to either approve or disapprove of Virginia's decision not to list the Shenandoah as impaired, in violation of an explicit statutory duty to take action. This is why Shenandoah Riverkeeper has filed its notice of intent to sue the EPA.

"What is so frustrating is that neither Virginia DEQ nor the US EPA have ever denied there is an algae problem. Instead, each have stated that they are unwilling to make a conclusion based on the information supplied by Shenandoah Riverkeeper and members of the public of a clear violation of the Clean Water Act's narrative standards," states Mr. Kelble.

The sixty day notice of intent letter is a pre-condition to Shenandoah Riverkeeper exercising its right to bring a citizen suit under the Clean Water Act, which in turn ensures enforcement of the law when the government fails or is unwilling to enforce it. If after 60 days EPA has not agreed to resolve the issue, Shenandoah Riverkeeper and Potomac Riverkeeper Inc., through its attorneys at Earthjustice, will file suit in federal court to ensure action is finally taken by the agencies.

About Potomac Riverkeeper, Inc.: Headquartered in Washington, DC, Potomac Riverkeeper Inc., through three Riverkeeper branches, works to protect the public's right to clean water in the rivers and streams throughout the Potomac Watershed. We stop pollution to promote safe drinking water, protect healthy river habitats, and enhance public use and enjoyment. Over the last thirteen years, our call for clean drinking water has reached millions of residents living in Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

[About Earthjustice:]

###