



## Flowing Springs Run to Benefit from Ox Paperboard Settlement

On February 13, 2012, Shenandoah Riverkeeper and Potomac Riverkeeper officially settled their Federal Clean Water Act lawsuit with Ox Paperboard. Shenandoah Riverkeeper Jeff Kelble states, "We are pleased with the settlement. Ox Paperboard provides a green service to the community and the company's leaders rescued a failing business several years ago and saved local jobs. Yet, before the settlement there remained an ongoing issue with toxic discharges to Flowing Springs Run which had continued in violation of the law for far too long."

In the settlement, Ox Paperboard is required to design and implement a biological treatment system to handle wastewater discharge as part of their planned facility upgrades, to pay over \$100,000 in fines to US Department of Justice, and to fund a \$50,000 supplemental environmental project within Flowing Springs Run or the Shenandoah River.

After waiting over a year and a half for the promised upgrades to occur, the Riverkeepers filed in order to guarantee that the environmental harm being caused by the facility would be addressed prior to or during the plant's planned expansion.

[story continued on page 4](#)



*Aerial view of Ox Paperboard facility in Halltown, West Virginia*



*Potomac & Shenandoah Riverkeeper staff explore Flowing Springs Run in Ranson, WV*

## Appeal Filed on Surface Mine Board Quarry Permit Decision

A coalition of organizations representing environmental, historical and community interests filed an appeal on Tuesday, February 21st in Berkeley County Circuit Court challenging a permit to allow quarrying on North Mountain, the visual backdrop of historic Gerrardstown and a crucial source of water for Mill Creek. After carefully reviewing the Surface Mine Board's final ruling on North Mountain Shale's quarry permit, Potomac Riverkeeper, along with Washington Heritage Trail, Inc. and Gerrardstown Presbyterian Church, filed the appeal because of two key flaws in the ruling.

First, the Board approved a quarry permit that is not protective enough to adequately control sediment discharge. The approval was based on the quarry's last minute claim that it is going to add chemical flocculant to its discharges. Despite the fact that the quarry was required to disclose any plans to rely on chemical flocculant with its permit applications, it utterly failed to do so and kept the community in the dark regarding such plans.

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## Riverkeepers to Celebrate 40th Anniversary of Clean Water Act



*To kick off the 40th Anniversary of the Clean Water Act, Potomac Riverkeeper Ed Merrifield talks about the importance of and the recent threats to the historic act.*

In the early 1970s, when it became clear that the individual states were not going to do anything about their rivers catching on fire, about fisheries disappearing, about green slime forming on rivers and streams, and about a President calling a river that runs past his window a national disgrace, Congress created a law to change all that. In 1972, Congress passed the “Federal Water Pollution Control Act,” more commonly known as the “Clean Water Act.”

The Clean Water Act’s objective is to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters. Its goal was to have all the nation’s waters fishable and swimmable by 1983 and have no discharge of pollutants into our waters by 1985. Despite not yet reaching these ambitious goals, the Clean Water Act has done more to restore the health of our rivers and streams than all other laws combined. So why are so many of our rivers and streams in decline? Well, the problem has three parts.

First, polluters and friends of polluters have done everything they can to harm the Clean Water Act. In the courts, they have picked at every part of the Act in their attempts to get more pollution into our waters. In the Congress, they have worked hard to elect those who would vote in ways to make the Act irrelevant. And yes, even some people and organizations that you might think are for the environment have been willing to sacrifice some parts of the Clean Water Act for their version of 30 pieces of silver. Fortunately, the Law has been able to survive these onslaughts against our right to clean water. However, as we approach the 40th anniversary of the Clean Water Act in October, polluters and friends of polluters are increasing the number and intensity of their attacks.

Second, although the first page of the Act talks about control of both point source (coming out of a pipe or any similar source) and non-point source pollution, the document contains exemptions for agriculture, which for the most part is a non-point source polluter. To get the votes needed to pass the law in ‘72, Congress added this exemption which has turned out to be the major flaw in the Act. This means that for the past 40 years it has been up to the states to stop pollution from agriculture - which hasn’t happened.



*Photo Credit: Blue Legacy*

## Clean Water Act *continued from page 2*

Third, what good is a law if it is not enforced? Over the years, the Environmental Protection Agency's enforcement of the Clean Water Act has waxed and waned with various Administrations' interest in protecting our rights to clean water, and with the resources Congress budgets for it. If it were not for a provision in the law that allows citizens to act as attorney general when the states and federal government are not doing their jobs, it's difficult to envision what our rivers would be like during the EPA's worst enforcement periods. Until the EPA can "stand tall" all the time, there will continue to be a struggle to enforce the law.



All of this can be summarized in a simple sentence: There is money in polluting. If it's cheaper for a polluter to pay a lawyer, legislator or someone else to allow him to pollute more, he'll do it. And, although rivers and bays without pollution would have enormous economic benefits to all of us (fisheries, recreation, public health, etc.), the cost to polluters would increase, and they will fight to make this not happen.

So what can you do? Let your legislators know that healthy rivers and streams, and the safe drinking water that comes from them are important to you. Tell them that any attempt to weaken laws protecting our nation's waters is wrong. We will do our best to inform you of legislative attacks on your right to clean water. Please help us in safeguarding one of America's great laws, the Clean Water Act.

*Please join us this year as we celebrate the 40th Anniversary of the Clean Water Act. See our schedule of events on page 6 for more information how how you can get involved!*

*Ed Merrifield*

### On the River



**Ed Merrifield**  
President  
& Potomac  
Riverkeeper



**Jeff Kelble**  
Shenandoah  
Riverkeeper



**Brent Walls**  
Upper Potomac  
River Manager



**Alan Lehman**  
Agricultural  
Project Manager

### DC Staff

**Robin Broder**  
Vice President

**Whit Overstreet**  
Communications & Outreach  
Manager

**Sarah Sorenson**  
Development Associate

## Drink, Fish, Swim in honor of the Clean Water Act!



This year is the 40th Anniversary of the Clean Water Act. Unfortunately, this landmark law that protects your right to clean water is under attack and at the same time we are experiencing new threats to our own local waters – a proposed toxic mixing zone, emerging contaminants linked to intersex fish, the inappropriate use of sewage sludge on land, and hydraulic fracturing for natural gas. We have plans this year to give you opportunities to learn about, advocate for and celebrate the Clean Water Act.

### Ox Paperboard *continued from page 1*

Shenandoah Riverkeeper Jeff Kelble adds “We decided early on that our priority was to resolve the issues with the plant and avoid the courts, so we believed that a settlement was the most expeditious way forward.” The Riverkeepers even tried to diminish the fines levied against Ox Paperboard in favor of a Supplemental Environmental Project (SEP) that the company will fund.

Flowing Springs Run has the potential to be the jewel of the county. Near Ranson, seven feeder springs come bubbling out of the ground to form the stream. “Working with a number of local groups to implement environmental improvements upstream of the facility, we hope that we can lay the foundation to bring back native brook trout historically supported by this stream and undo some of the damage that has been done from years of excessive discharges,” Kelble optimistically predicts.

In addition, a restoration project upstream from the plant has the potential to eventually benefit Ox Paperboard - improving the quality of the water used in its operations could lower operating costs for the facility.

## Virginia’s Withdrawal from ICPRB Stopped

Potomac Riverkeeper and Shenandoah Riverkeeper joined other groups in arguing against Governor McDonnell’s proposal to cut funding for the state’s annual membership dues to the Interstate Commission on the Potomac River Basin (ICPRB), and the related legislation seeking to withdraw as a member from the interstate compact. The purported motivation behind this short sighted move was budget austerity and the elimination of wasteful programs.

However, as Robert Hartwell, one of Virginia’s three appointed commissioners, argued eliminating funding and withdrawing from ICPRB would not only be detrimental to the State’s interest in the management and protection of the essential resource that is the Potomac River, such a move would actually cost the State more than it would save. Millions of Northern Virginians get their drinking water from the Potomac River and benefit directly from the interstate compact that manages water resources.

We applaud this wise decision for Virginia to remain a partner to the cooperative compact.

## Riverkeepers Protest Liquefied Natural Gas (LNG) Export Planned for Cove Point, MD

In an effort to challenge the next threat to America’s energy independence, environmental health, and family economics, Potomac Riverkeeper and Shenandoah Riverkeeper joined other local Riverkeeper groups to file comments with the U.S. Department of Energy challenging a proposal that would allow the Dominion Cove Point LNG facility to export natural gas to non-Free Trade Agreement countries, many in Asia and the Middle East.

“LNG facilities like the one proposed for Cove Point are intended to ship natural gas extracted in this country off to foreign lands. The result is that gas drillers can ship American gas overseas in order to make more money, but this increases the price of natural gas for us, and our communities and environment get ravaged by the shale gas “gold rush”, including thousands of miles of new pipelines through the Susquehanna Watershed. It may be a win for the gas drillers but it throws the idea of American energy independence out the window,” argues Michael Helfrich, Lower Susquehanna Riverkeeper.

“We filed these comments because the law which oversees such projects puts citizens at a big disadvantage when it comes to LNG facilities” explains Guy Alsentzer, Staff Attorney for the Lower Susquehanna Riverkeeper.



*Aerial view of LNG Facility in Cove Point  
(Photo Credit: LNG World News)*

## Quarry Permit *continued from page 1*

“The Surface Mine Board should not have approved the permit without requiring North Mountain Shale to fully explain how it intends to protect the water quality of our community,” states Upper Potomac River Manager Brent Walls. “The quarry’s own witnesses admitted that their proposed sediment ponds are far too small to protect Mill Creek, so they were forced to claim – for the first time at the hearing – that they intended to use chemical flocculant. However, the community has had zero opportunity to review or comment on the quarry’s use of chemical flocculant and, even more troubling, the quarry’s witness was unable to answer basic questions about what chemicals would be used or in what amounts. Together with the recent disappointing decision of the Environmental Quality Board, both final rulings do not protect a crucial water source for Mill Creek from sediment pollution.”

Second, the Board also prohibited arguments challenging the adequacy of West Virginia Department of Environmental Protection’s (WVDEP’s) review of the impact of the quarry operations on the historical resources in the area. The quarry intends to run its massive trucks through the heart of the Gerrardstown Historic District, which is recognized by the National Register of Historic Places as containing more than ninety historic buildings.

“The Washington Heritage Trail Trustees are disappointed that the Surface Mine Board bluntly refused to review the quarry’s potential impacts on both the scenic and historic values of Gerrardstown,” said Jeanne Mozier, President of the Washington Heritage Trail. “It is extremely troubling that the Board and the State are ignoring this and trampling on our right to challenge the impact analysis. Several state rulings have made it very difficult for the Washington Heritage Trail to carry out its mission of preserving and protecting the various attributes which earned the trail its national designation. We are especially concerned that the Division of Culture and History did not object to the violation of this region from the very beginning.”

The appeal filed with the Berkeley County Circuit Court will be a review of the facts as presented in the evidentiary hearings.



*The proposed North Mountain Shale quarry operations could threaten the health of streams that are important to the local community and are tributaries of the Potomac.*

## Save the Date SPLASH - April 28th, 2012

The Waterkeeper Alliance SPLASH Event Series, presented nationally by Toyota in partnership with national founding sponsor, Keen, is a program that engages local citizens and clean-water enthusiasts in water-based activities like swimming, paddling or boating.

Please mark your calendars for April 28th when Potomac Riverkeeper will be hosting the final event of the SPLASH series. Learn more about this event and how to get involved online at [www.potomacriverkeeper.org/SPLASH](http://www.potomacriverkeeper.org/SPLASH)

We look forward to seeing you on the water!



## Get Involved with Potomac & Shenandoah Riverkeeper in 2012

Mark your calendar to participate in our many events and activities this year. Learn more about volunteering by contacting us at 202-222-0707 or [volunteer@potomacriverkeeper.org](mailto:volunteer@potomacriverkeeper.org). For more information please visit [www.potomacriverkeeper.org/get-involved](http://www.potomacriverkeeper.org/get-involved)



**March 20** -- Potomac River films, DC Environmental Film Festival

**March 22** -- Drinking Water Awareness Day (as part of World Water Day)

**April 14** -- Potomac River Watershed Cleanup, in partnership with Calleva

**April 28** -- Potomac Riverkeeper's SPLASH event, Gangplank Marina

**June 2 - 10** -- Fishing Awareness week

**June 10** -- Potomac River Gala, House of Sweden

**July** -- Swimming Awareness day

**July 14** -- Shenandoah River Rodeo

**August** -- 2nd Annual Island to Island Paddle

**October** -- Clean Water Act 40th Anniversary Rally in DC, hosted by Waterkeeper Alliance

### Potomac Riverkeeper SPLASH!

April 28th, Washington, DC

Splash! is a boat race hosted by Potomac Riverkeeper to inform and connect more people to our river. In partnership with Waterkeeper Alliance and sponsored by Toyota and Keen Footwear, the event will take place at DC Sail's facility in Gangplank Marina.

### Clean Water Act 40th Anniversary

March 2012, Washington, DC

Potomac Riverkeeper will mark the 40th anniversary of the Clean Water Act with a number of events to celebrate its relevance in fighting for drinkable, swimmable, fishable rivers. In March events will focus on clean drinking water and coincide with World Water Day and the DC Environmental Film Festival.

### Potomac River Watershed Cleanup

April 14th, Riley's Lock, MD

Join Potomac Riverkeeper and Calleva for the Annual Potomac River Watershed Cleanup. This clean up will take place at Riley's Lock as part of the Alice Ferguson Foundation's 24th Annual Potomac River Watershed Cleanup. It will be an on-the-water and land event.

### Potomac Riverkeeper Gala

June 10th, House of Sweden

Our annual gathering of friends and supporters set in the spectacular House of Sweden overlooking the Potomac is our major fundraising event of the year. Planning begins now to ensure a success in June.



*Join Potomac Riverkeeper along with DC Sail for our SPLASH sailing event!  
(Carl G. Schaefer, Jr, Copyright 2011)*

## Stepping down but not leaving

*Board Chair Mac Thornton hands the helm over to Sally Davidson*



*Potomac Riverkeeper, Ed Merrifield, and Mac Thornton*

Mac Thornton, who served as Chair of the Board for Potomac Riverkeeper for 9 years, is stepping down after reaching the by-laws limit of 3 consecutive 3 year terms. However, Mac will continue to be an integral part of our organization by keeping his post on the Litigation Committee and participating in our work. During his tenure, Mac Thornton oversaw the program, capacity, and membership expansion of Potomac Riverkeeper.

Mac has a long and storied record of river advocacy and protection - he founded West Virginia Rivers Coalition in 1989, co-founded Potomac Conservancy in 1993 and served as Co-Chair, was Vice President of American Whitewater for 5 years, and spent 17 years as the Conservation Chair for the Canoe Cruisers Association. Mac never tires of the river - he has been an avid whitewater kayaker since the sport's nascent beginning in the 1970s and continues to spend time on the Potomac almost every weekend with his family. We thank Mac for his service and look forward to seeing him out on the river.

## The Environmental Law Clinic at the University of Maryland

*A stalwart institution dedicated to protecting your right to a safe environment*

Since its establishment in 1987, the Environmental Law Clinic at the University of Maryland has provided invaluable legal services benefitting the citizens of Maryland and the Chesapeake Bay Watershed. The Clinic represents the public interest in the health of the environment by working to enforce and improve environmental laws in the areas of clean water, clean air, environmental justice, legislative policy, and community awareness. Clients of the Clinic include Potomac Riverkeeper, other regional Waterkeepers, community associations, environmental groups, and individual citizens.

Potomac Riverkeeper has directly benefitted from the representation and work provided by the Clinic. By way of example, in a long and complicated case against Mirant (now GenOn) for discharging illegal pollutants from a coal waste landfill in Charles County, Maryland, the Clinic worked on behalf of Potomac Riverkeeper and the other litigants over a 4 year long period. Semester after semester, student after student, the Clinic tracked and managed the caseload flawlessly. Potomac Riverkeeper and other similar grassroots groups with limited resources could not as effectively pursue their missions without this great undertaking on the part of the Clinic.

Over the years, the Clinic has weathered onslaughts by detractors and polluters who would prefer that the citizens of Maryland not have such an effective champion on the side of the environment. Most recently, the Clinic is being attacked by a campaign funded in part by poultry giant Perdue. This attack included an inappropriately scathing letter delivered by Martin O'Malley from the bully pulpit of the Governor's office. Law schools from across the country, local environmental groups, and ordinary citizens jumped to defend the work of the Clinic by contacting the Maryland state delegates to make sure there was no defunding of or interfering with this valuable community resource. (For more info, go to [www.law.umaryland.edu/cleanwater](http://www.law.umaryland.edu/cleanwater).)

Contact your state delegates to tell them that you support the environmental law clinics at your state's public universities. Go to [www.potomacriverkeeper.org/take-action-support-environmental-law-clinic](http://www.potomacriverkeeper.org/take-action-support-environmental-law-clinic)





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# River Watch

The Newsletter of Potomac RIVERKEEPER, Inc.

## Spring Happenings!

### We Want Your Feedback!

As part of our growing membership outreach, we are conducting a survey to examine ways in which our organization can better meet the needs of our members and followers. Submissions are completely *anonymous* and will be used to enhance communications and outreach initiatives.

[www.potomacriverkeeper.org/survey](http://www.potomacriverkeeper.org/survey)

### Island to Island Presentation - REI Bailey's Crossroad

Come out to REI at Bailey's Crossroad on **March 28th** to hear Whit and Joe recount their 100+ mile 7-day trek down the Potomac River! For more information please visit:

[www.potomacriverkeeper.org/island](http://www.potomacriverkeeper.org/island)

### Report Pollution!

Make a Difference. Report Pollution.

Call 301-POTOMAC (301-768-6622)

Online form: [potomacriverkeeper.org/report-pollution](http://potomacriverkeeper.org/report-pollution)



Save the Date!

**SPLASH! - April 28th, 2012**

[www.potomacriverkeeper.org/splash](http://www.potomacriverkeeper.org/splash)