



Testimony in Opposition of House Bill 635 – Discharges from Construction Sites - Limits on Liability

February 20, 2023

ShoreRivers strongly **OPPOSES HB635** as it will create less accountability for those responsible for pollution from construction sites during a time when construction activity, and the threat of construction-driven sediment pollution, is at an all-time high on the Eastern Shore.

Pollution from construction sites is the most visible and some of the most damaging to water quality. According to the EPA, a one-acre construction site can result in 35–45 tons of sediment runoff a year. Sediment carries phosphorus, an algae-growing nutrient, to small waterways where it creates poor water quality conditions, silts over oyster reefs and fish habitat, and is one of the three major pollutants that cause water quality impairments on the Eastern Shore.

HB635, which limits and sets caps on penalties for pollution resulting from construction activity, will directly impact the rivers on the Eastern Shore because:

1. Construction activity on the Eastern Shore has increased exponentially since the beginning of the COVID-19 pandemic and talks of expanding the Chesapeake Bay Bridge have exposed the Eastern Shore to an unprecedented amount of development interest. Some towns, like the Town of Easton, have experienced 10-years' worth of development proposals in the past two years, resulting in several large-scale developments being constructed at the same time. **It's important that to uphold the intent of stormwater and construction site permit of protecting waterways from sediment pollution that inspectors and compliance staff hold a high standard of accountability which means sometimes issuing fines and penalties above those described in the bill.**
2. Construction sites on the Eastern Shore are large, and minimum penalties often don't do enough to deter violations or mitigate the damage caused to local waterways. Unlike development in urban areas, the development on the rural Eastern Shore often consists of converting large parcels of farmland to buildings, roadways, and parking lots. Take for example a 129-acre property in Talbot County on La Trappe Creek known as Martin's Point Farm where a new landowner hired an out of state contractor to clear the trees along one mile of shoreline after seeking a permit to perform tree maintenance work only. The county chose to issue a minimum fine of \$10,000, an amount that barely accounts for the shoreline stabilization benefits the trees provided. **More accountability, not less, is needed to account for the damage caused from large construction sites.**
3. Most of the Eastern Shore is either in the floodplain or considered wetlands, riparian buffers, critical area, or other sensitive habitat. With 2,910 miles of coastline, the Eastern Shore covers 66% of the state's Chesapeake Bay coast, making it a force-multiplier for water quality impacts stemming from the Eastern Shore. Sediment coming from construction sites near these sensitive areas will have a greater impact on those resources. **Compliance staff should be able to use their discretion to issue penalties of a degree that they feel is necessary to prevent these sensitive areas from being impacted by failing pollution controls on construction sites.**

The rivers on the Eastern Shore are already impaired with too much sediment, a problem that will only get worse if penalties and accountability measures aren't used adequately to deter pollution from construction sites. As a means of protecting water quality in local rivers and protecting the Eastern Shore communities that depend on clean water, ShoreRivers urges that the committee to oppose HB635.

Sincerely,

Matt Pluta, Choptank Riverkeeper on behalf of:

ShoreRivers

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