



Testimony in **SUPPORT** of SB1074

March 25, 2024

Dear Chairman Korman and Members of the Committee,

Thank you for this opportunity to submit testimony in **SUPPORT** of **SB1074** on behalf of ShoreRivers. ShoreRivers is a river protection group on Maryland's Eastern Shore with more than 2,500 members. Our mission is to protect and restore our Eastern Shore waterways through science-based advocacy, restoration, and education.

SB1074 will bring much needed oversight and accountability to the storage and handling of industrial sludge material, also referred to as DAF ("Dissolved Air Flotation"). A University of Maryland "Animal Waste Technology Assessment and Strategy Planning"¹ report shows that Maryland is on the receiving end of *more than 60% of the DAF that's generated regionally*. The report makes some key findings related to the current inadequacies of handling and storing DAF:

1. Maryland is a major sink for DAF from both in- and out-of-state sources (Page 22)

- Maryland generates DAF at three poultry processing facilities and receives substantial shipments from Delaware and Virginia (Page 21)
- Most DAF is generated in states other than Maryland (Page 22)
- Farmers in Maryland reported the importation of nearly 30 million gallons of DAF in 2019 and at least 37 million gallons in 2020, which respectively accounted for 50% and 62% of the ~60 million gallons generated regionally (Page 22)
- It is estimated that between 2019 and 2021, 93.9 million gallons of DAF were imported into Maryland counties, containing 4.78 million lbs. of nitrogen, 1.75 million lbs. of phosphorus, and 0.273 million tons of potassium (Page 21)

2. The reporting and tracking of DAF use in Maryland is inadequate

- No comprehensive public databases track DAF generation, shipment, and composition in Maryland (Page 21)

3. The make-up of DAF is largely unknown and differs between truck loads. It's also a poor nutrient source for crops.

- The solids and nutrient content of the DAF products delivered to the fields may also vary by shipment, since transport companies combine loads from multiple different facilities during transport (Page 22)
- Raw DAF soil amendments may be a poor choice to limit nutrient runoff (Page 23)

¹ Lansing, P., *Maryland Animal Waste Technology Assessment and Strategy Planning, Final Report*. University of Maryland, September 2023. PDF: https://extension.umd.edu/sites/extension.umd.edu/files/2023-10/Final.Report.AWTF_Assessment.pdf

ShoreRivers

Isabel Hardesty, Executive Director
Annie Richards, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper
Ben Ford, Miles Wye Riverkeeper | Zack Kelleher, Sassafras Riverkeeper

We support SB1074 because the improper use of DAF can lead to water pollution and the undermining of priority practices intended to help the agricultural industry meet the Chesapeake Bay clean-up goals:

Example 1: In November of 2023, a resident of Caroline County witnessed the stream behind his house filled with a black muck-like material that discolored the entire water column. **After investigating, we learned that a DAF hauler from Pennsylvania leased an upstream property with a wastewater lagoon that they intentionally drained of its contents to waters of the state over a 48-hour period.** A representative of the Pennsylvania company stated that the pond was drained for the purpose of storing DAF and dairy manure. An investigation report of this incident, including the photos of the lagoon drained of its contents, are including as Attachment #1 with this comment letter.

Example 2: In September of 2023 a DAF hauling company from Arkansas was subject of a nuisance complaint in Talbot County for their repeated use and industrial-like storage of DAF on a farm that caused sickening odors and insect infestations in the surrounding community. **During a hearing in front of the Talbot County Agricultural Resolution Board, the Arkansas-based company testified to the fact that their strategy for finding farms to apply DAF to includes buying farmers out of their state-subsidized cover crop best management practice contract.** *“Mr. Banks (Denali): During the fall time of the year, I will approach farmers. And when we apply the product, I will offer them a buyout of their cover crop program. Mr. Cropper (Talbot Co.): which means what? Mr. Banks (Denali): I’ll just throw numbers out, the State is paying them \$75 to plant their cover crop. I’ll give them the same amount of money or more to buy them out of their cover crop. That way we can land apply the sludge”* (Page 50-51 of the Talbot County Agricultural Resolution Board hearing minutes, February 28, 2022² – **Attachment 2**) According to the Department of Legislative Services’ Chesapeake Bay Restoration Strategies report, “Cover crops have been described as the State’s single most cost-effective BMP available to prevent nitrogen from entering groundwater and polluting the bay” (Page 8).³ The incentive of hauling, using and storing DAF in Maryland is directly undermining efforts to protect local water quality and meet the Chesapeake Bay Clean-up goals.

Example 3: In September 2022, a DAF hauling company from Arkansas seen leaving the Dorchester County rendering plant spilled contents of its truck load onto the roadway. **Upon investigating the spill, it was discovered that the truck contained raw chicken parts, including feet, beaks, and the intestines of the chicken (photos are included in Attachment #3).** This spill contributed to polluted runoff into the nearby Tred Avon River. Spills like this are reported to be increasing and more common in other states where a large number of the DAF generators are located: [Another mess in Clinton Yields Charges: Third ag byproduct spill in Clinton in two weeks](#) (North Carolina) and [Same site, another spill: Officials respond to early-morning ag byproduct mess](#) (North Carolina).

Lastly, we support **SB1074** because, as amended, it will utilize the expertise from the Maryland Department of Agriculture and Maryland Department of Environment to bring much needed accountability and oversight and ensure that any storage and use of DAF in Maryland is done responsibly and in a way that doesn’t impact local water quality and the health and well-being of the surrounding community. For these reasons, we ask the Committee to provide a favorable report on **SB1074**.

² Talbot County Agricultural Resolution Board Hearing, February 28, 2022. PDF: https://talbot-md.granicus.com/MetaViewer.php?view_id=4&clip_id=949&meta_id=93817

³ Gray, A. Heide, C., *Chesapeake Bay Restoration Strategies: Agricultural Certainty, Cover Crops, and Nutrient Trading*, Department of Legislative Services. 2013. PDF: <https://dls.maryland.gov/pubs/prod/NatRes/Chesapeake-Bay-Restoration-Strategies.pdf>

Sincerely,

A handwritten signature in black ink that reads "Matt Pluta". The signature is fluid and cursive, with the first and last names clearly legible.

Matt Pluta, Choptank Riverkeeper

Pollution Incident Report:

Peaviner Road Wastewater Lagoon Spill

August 14-18, 2023

Photos, Maps and Descriptions

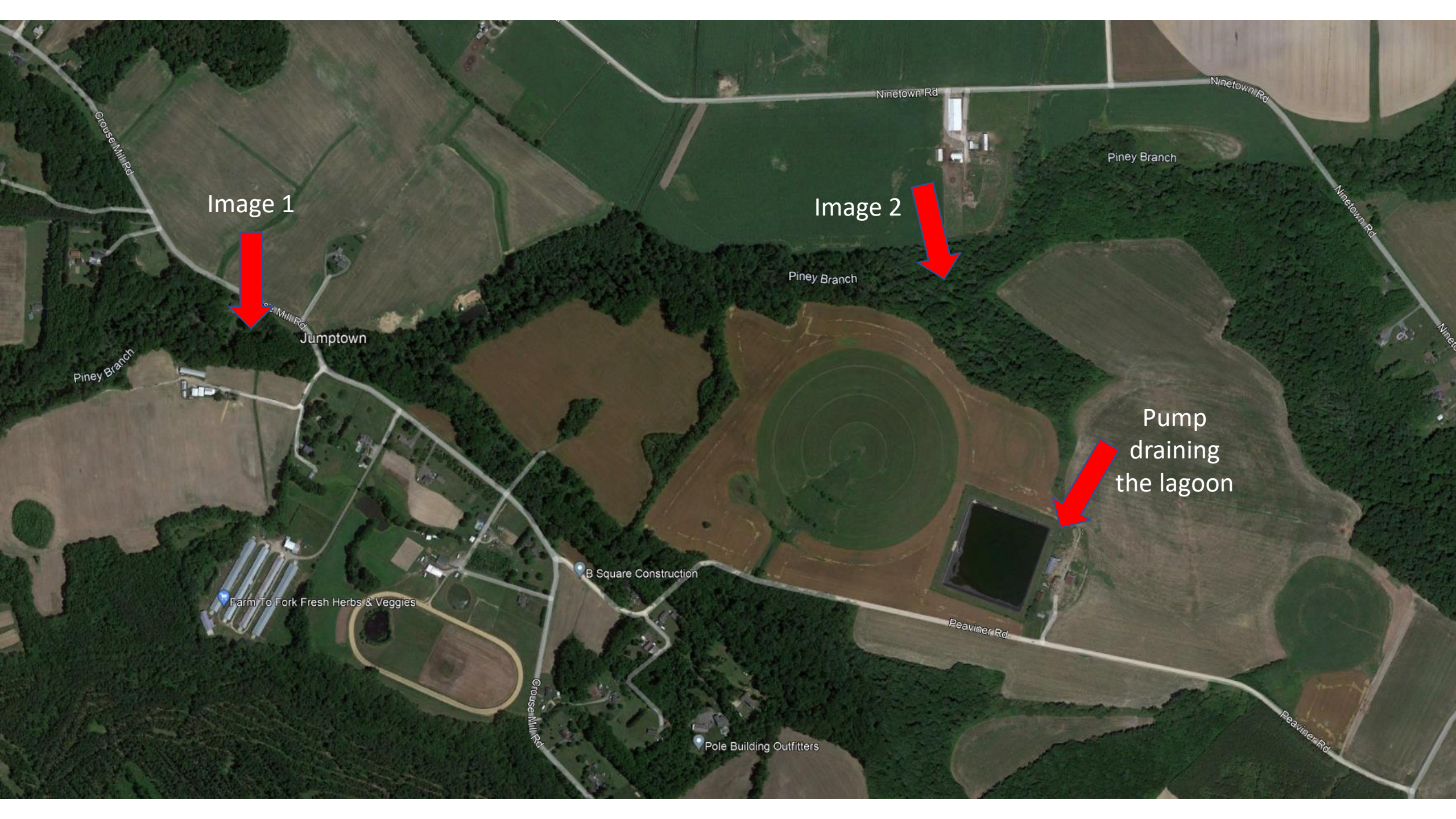


Image 1

Image 2

Pump
draining
the lagoon

Image 1: Murky water in Piney Branch as seen .85 miles downstream of source. 38.960852°, -75.920407°
(8-12-2023)



Image 2: Murky water
draining from property
with wastewater lagoon.
38.961983°, -75.905058°
(8-13-2023)

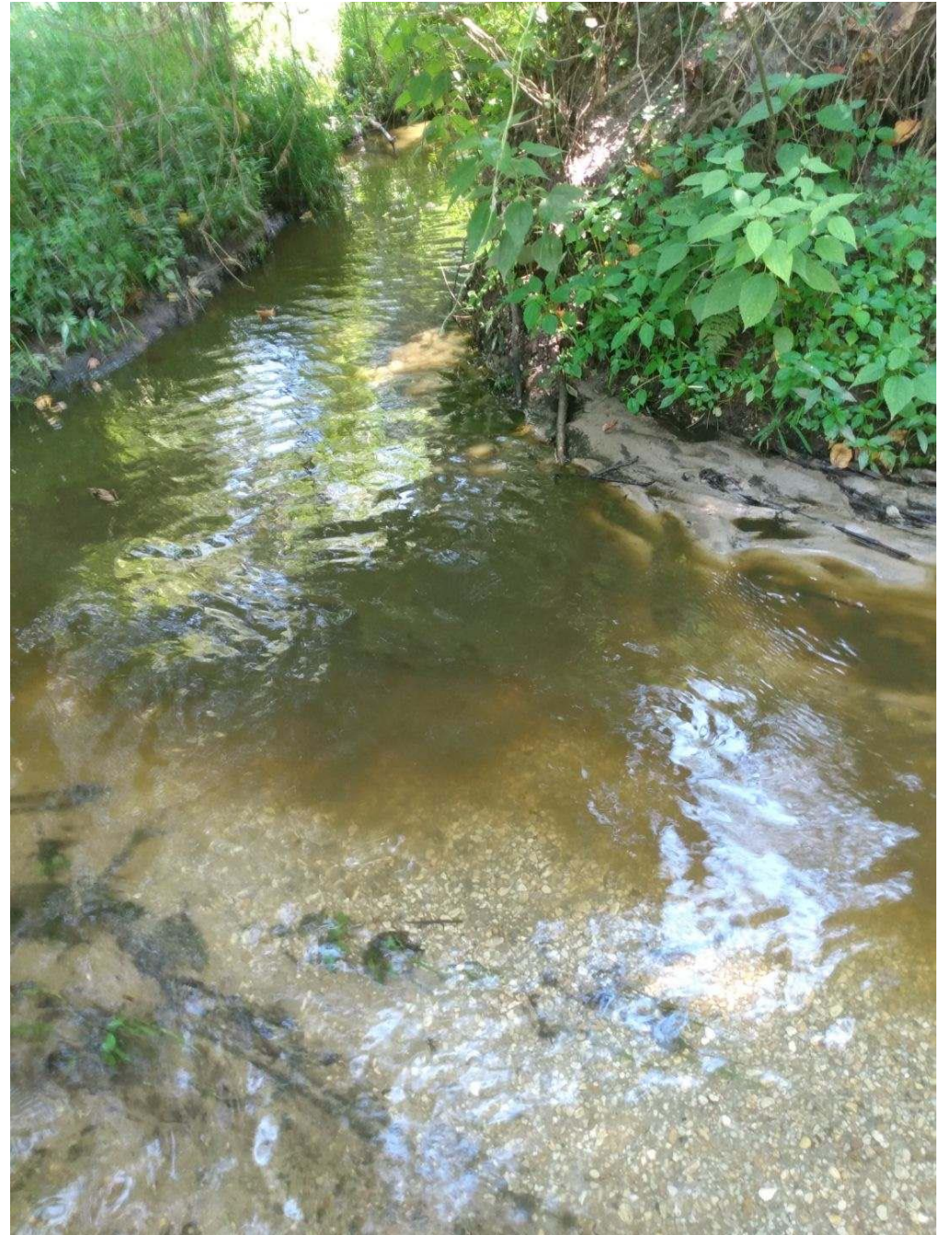


Image 3:
Aerial
image
showing
drained
wastewater
lagoon and
solid waste
dump
(8-14-2023)



Image 4:
Northeast
corner of
wastewater
lagoon
showing a
pump and
hose actively
draining the
lagoon
(8-14-2023)



Image 5:
Close-up of
pump and
hose
(8-14-2023)



Image 6:
Sludge from the
lagoon stored
on the ground
uncontrolled
(8-18-2023)



Image 7:
Aerial of
drained and
lagoon and
sludge from the
lagoon stored
on the ground
uncontrolled
(8-18-2023)



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TALBOT COUNTY AGRICULTURAL RESOLUTION BOARD

TALBOT COUNTY, MARYLAND

Board Hearing

Regarding the Foster Farm

February 28, 2022; 9:00 a.m.

Talbot County Community Center

10028 Ocean Gateway

Easton, MD

AGRICULTURAL RESOLUTION BOARD MEMBERS:

Travis Hutchison

Robert Greenlee

Lewis H. Smith, Jr.

Shannon Dill

Shawn Smith

Reported by

Diane Houlihan

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1 I N D E X

2 ATTENDEES:

3 Michael Duell
 Talbot County Chief Code Compliance Officer

4

5 Bill Schmidt, LEHS
 Supervisor, Office of Environmental Health
 Talbot County Health Department

6

7 Duane Gottschalk
 Talbot County Code Compliance Officer

8 Lance Young, Esq.
 MacLeod Law Group

9

10 Dwight Dotterer
 Maryland Department of Agriculture

11 Howard Callahan
 Maryland Department of Agriculture

12

13 Tommy Phillips
 Maryland Department of Agriculture

14 Brian Coblentz
 Maryland Department of Environment

15

16 Mark Spencer Cropper, Esq.
 Ayres, Jenkins, Gordy & Almand

17 Jimmy Mardis
 Denali

18

19 Chris Banks
 Denali

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1 vice chairman of our Board.

2 And the other party member of our Board is

3 Mr. Lewis Smith.

4 Also with us are advisers to the Board.

5 They're non-voting members. But we have

6 Ms. Shannon Dill with Talbot County extension

7 agent, Mr. Shawn Smith, head of the Soil

8 Conservation District here in Talbot County.

9 Over here we have.

10 MR. YOUNG: Lance Young.

11 MR. HUTCHISON: Lance Young. He's our

12 attorney, our adviser, legal counsel.

13 MR. SCHMIDT: Bill Schmidt, Talbot County

14 Health Department, Office of Environmental

15 Health.

16 MR. DUELL: Mike Duell, chief code

17 compliance officer, Talbot County.

18 MR. GOTTSCHALK: Duane Gottschalk, code

19 compliance officer, Talbot County.

20 MR. HUTCHISON: And over here, we have

21 State officials to answer questions for us

Page 3

1 T R A N S C R I P T O F P R O C E E D I N G S

2

3 MR. HUTCHISON: Good morning. I'd like to

4 welcome everybody here today for the

5 resolution, Talbot Agricultural Resolution

6 Board for a hearing about the complaints from

7 Trappe on the Foster Farm.

8 First thing, I'd like to take care of a

9 little bit of business. We have a court

10 reporter with us today that we're recording

11 everything we say. So we need to keep it

12 fairly quiet in here so she can hear so she can

13 record everything properly.

14 Only want one person speaking at a time so

15 it can be understood. I'd like you to speak

16 clearly and slowly.

17 First thing I'd like to do is introduce

18 some of the parties involved. My name is

19 Travis Hutchinson. I'm chairman of the Talbot

20 Agriculture Resolution Board.

21 On my right is Mr. Robert Greenlee. He's

Page 5

1 today that have been involved with this case.

2 If you guys would like to introduce.

3 MR. DOTTERER: I'm Dwight Dotterer. I'm

4 from Maryland Department of Agriculture, and

5 I'm in charge of the nutrient management

6 program.

7 MR. CALLAHAN: I'm Howard Callahan. I'm

8 with the Maryland Department of Ag's nutrient

9 management program covering this region.

10 MR. PHILLIPS: I'm Tom Phillips, State

11 chemist.

12 MR. COBLENTZ: Hi, good morning. My name

13 is Brian Coblentz. I'm division chief of the

14 Maryland Department of Environment's compliance

15 division.

16 MR. HUTCHISON: All right. I thank you.

17 First thing we're going to do is ask

18 Mr. Mike Duell to present his report and

19 findings on the case.

20 MR. YOUNG: Before Mr. Duell does, since

21 we have a court reporter here and she has to

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1 could look at.

2 MR. SCHMIDT: Okay.

3 MR. PHILLIPS: But from cost wise, it's

4 going to being extremely prohibitive.

5 MS. LEWIS: I just have four questions

6 here.

7 MR. SCHMIDT: Appreciate it.

8 MS. LEWIS: Number one. Currently, right

9 now, we have smells and we have flies. I

10 understood you were out there the other day.

11 It rained two days after that. The very

12 morning, about 48 hours after you left, as soon

13 as I walked out the door, I could smell it.

14 And yes, I agree it is literally a

15 latrine. Smells like the bathroom at summer

16 camp when you were a kid. And that's the air

17 we currently have.

18 The flies right now are extremely bad.

19 This is not a time of year for flies. It's not

20 just regular flies. It's midges. I don't know

21 if anybody knows what midges are. Midges are

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1 these tiny little things that you find at

2 wastewater treatment plants.

3 I have 20 years? experience with wastewater

4 treatment plants, and I recognize the bugs.

5 Currently our house is covered in them;

6 the windows, the doors, the vehicles.

7 What I want to know (inaudible), if you

8 could answer, and from Denali is does the

9 components, the Valley Protein especially, is

10 that changed when it rains and when it's hot?

11 So if I was to put that component in water

12 and let it sit in the sun for days on end at 90

13 degrees, does it chemically change? Is it

14 still the safe product that was left there?

15 Fermenting is the word we all can think

16 of. Does that not happen?

17 MR. PHILLIPS: It's really outside of my

18 area of expertise.

19 MS. LEWIS: That's fine. That's a

20 question for everyone.

21 Rain, moisture, dew, wind, all of those

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1 things affect a product. Do they not?

2 I can ask Chris that.

3 MR. BANKS: It's piled up in the trench.

4 Of course, you have the sun on top of it.

5 You'll create a crust.

6 If it rains, if there's any indentations,

7 of course, the water will sit on top of the

8 product.

9 But I'm not an expert on it, but I can --

10 sometimes you leave nutrients on it, yes, due

11 to the wind, due to the rain, due to the sun.

12 MS. LEWIS: I now have nine months

13 experience. And I can tell you that these are

14 all factors.

15 MR. GREENLEE: Before you go to the next

16 question, is that related to class A solids as

17 well as the Sea Watch or is that specific to

18 Sea Watch?

19 MS. LEWIS: My question on the chemical

20 change was more so the Sea Watch.

21 I'm not aware that the class A biosolids

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1 technically would do that.

2 What they do is they smell. And the

3 wetter they are, the more they smell. The more

4 the wind carries them, the more we're going to

5 receive the smell.

6 I would imagine the flies, the midges,

7 those are related to class A biosolids.

8 MR. HUTCHISON: Thank you.

9 MS. LEWIS: Does the farmer get paid to

10 receive this product? And that would be

11 addressed to Denali.

12 MR. CROPPER: (Inaudible) farmer gets paid

13 to receive the product. And I think you said

14 earlier they do not. Is that correct?

15 MR. BANKS: (Inaudible).

16 MR. CROPPER: So state for the record what

17 you just told me.

18 MR. BANKS: During the fall time of the

19 year, I will approach farmers. And when we

20 apply the product, I will offer them a buyout

21 of their cover crop program.

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1 MR. CROPPER: Which means what?
 2 MR. BANKS: The State's, I'll just throw
 3 numbers out, the State is paying them \$75 to
 4 plant their cover crop.
 5 I'll give them the same amount of money or
 6 more to buy them out of their cover crop. That
 7 way we can land apply the MPK or the sludge.
 8 MR. HUTCHISON: Clarify that a little bit.
 9 If we put cover crop, farmers put cover crops
 10 out, they cannot put nutrients on them.
 11 So what he's doing is there's still
 12 probably putting the cover crop out to take up
 13 the nutrients they applied. But the farmer,
 14 once he puts out there, he's no longer eligible
 15 for that.
 16 So they're basically making sure the
 17 farmer is not losing money on the deal by --
 18 MR. BANKS: That's correct.
 19 MR. HUTCHISON: Is the way I understand
 20 it.
 21 MR. BANKS: That is correct.

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1 MR. DOTTERER: It's more like they're not
 2 eligible for the State's cover crop program
 3 because it's an imported product. It wasn't
 4 produced on the farm.
 5 So since they're not eligible for the
 6 State's cover crop (inaudible), at that point
 7 they'd have to make up that difference.
 8 MS. LEWIS: Is the farmer paid to allow
 9 for storage of this product?
 10 MR. MARDIS: It's not from the storage,
 11 no. Not from just storage.
 12 MS. LEWIS: Does the farmer receive any
 13 financial benefit?
 14 I'm just trying to ask the question.
 15 MR. MARDIS: That's what (inaudible).
 16 That was the --
 17 MS. LEWIS: So their only financial
 18 benefit is the offset of cover crop funding?
 19 MR. BANKS: Cover crop funding? I would
 20 say (inaudible) them out of their cover crop.
 21 MS. LEWIS: What is the benefit to the

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1 farmer in this case?
 2 MR. BANKS: The farmer can, whatever the
 3 State allows that year for cover crop, they can
 4 go through and plant their cover crop and
 5 receive a certain amount of money from the
 6 State of Maryland for planting a cover crop.
 7 MS. LEWIS: But not in this case?
 8 MR. BANKS: Pardon me?
 9 MS. LEWIS: They can't receive money for
 10 this cover crop.
 11 MR. BANKS: That's why I buy them out.
 12 MS. LEWIS: I understand that. It's okay.
 13 Done asking the question.
 14 For Denali, do you experience problems any
 15 place in this country with the smell of chicken
 16 byproducts from processing plants being placed
 17 on farms?
 18 MR. MARDIS: At times --
 19 MS. LEWIS: In the last two to three
 20 years.
 21 MR. BANKS: At times during certain

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1 weather conditions when the land application of
 2 any fertilizer on a farm site, you have the
 3 potential to have odor complaints. You can
 4 have some odors that may get off the property
 5 line, yes.
 6 MS. LEWIS: But you've not experienced
 7 problems of this nature where people are in
 8 meetings like this?
 9 MR. BANKS: I don't think to this extent
 10 because this goes back to the product we're
 11 talking about, the issue, that's very usual.
 12 MR. CROPPER: But you're not going to say
 13 for the record --
 14 MR. MARDIS: No.
 15 MR. CROPPER: -- that Denali has never
 16 received complaints after land applying either
 17 a soil conditioner or a class A biosolids on
 18 any property anywhere? We are not saying that?
 19 MS. LEWIS: Specifically chicken was my
 20 question.
 21 MR. CROPPER: The byproduct of chicken

Pollution Incident Report

Agricultural Byproduct Spill

September 2022

Image 1:
Spill material on
Route 50 near
Easton, MD

September 20,
2022



Image 2 and 3: Contents of spill

September 20, 2022



Image 4:
Truck spill
leaving
Darling
Ingredients
facility,
Route 50 in
Linkwood,
MD.

August 2022



Image 5:
Contents of
spill on
Route 50 in
Linkwood,
MD.

August 2022

