



Testimony in SUPPORT of HB649 – Environment - Discharge Permits – Inspections and Administrative Continuations

February 23, 2022

Dear Chairman Barve and Members of the Committee,

Thank you for this opportunity to submit testimony in **SUPPORT** of HB649 on behalf of ShoreRivers. ShoreRivers is a river protection group on Maryland's Eastern Shore with over 2,000 members. Our mission is to protect and restore our Eastern Shore waterways through science-based advocacy, restoration, and education.

This bill includes a number of actions that will bring Maryland Department of the Environment back to the standard of protecting the state's water quality from permit holders who are failing to comply with their permits or operating on an expired permit. Specifically, HB649 will:

1. **Put a much-needed end to MDE's practice of administratively extending the terms of a discharge permit after it has reached its expiration date.** By allowing a facility to operate on an expired "*zombie permit*" MDE is waiving their responsibility to make sure that every facility discharging pollution to Maryland waterways is doing so in compliance with modern regulatory and technology standards. By administratively continuing an expired permit MDE is also taking away the public's statutory right to review and weigh-in on these permits at least every five years.

The worst of these *zombie permits* is Valley Proteins, a discharger on the Eastern Shore whose permit expired in 2006 but because of MDE's inaction it continues to govern the facility's discharge 15 years later. The discharge limits in this permit reflect those issued in the early 2000s and ignores technological advancements such as the use of Enhance Nutrient Removal (ENR) technology, which is the standard level of treatment for new wastewater operations.

Public input on this permit has been lacking since the early 2000s despite serious concerns from the surrounding community about the water and air pollution from the Valley Proteins facility. Discharges with high levels of nutrients have caused downstream algal blooms, fish kills, and even the death of someone's pet dogs, meanwhile air pollution is impacting the quality of life and presenting health concerns for communities over 5-miles away. MDE has essentially silenced the public on these issues by not granting them a regular opportunity to engage with the permit renewal process.

2. **Require monthly inspections for facilities that are operating on a zombie permit, or operating in significant non-compliance (SNC) of their discharge permit.** If MDE chooses to administratively continue an expired permit, then the burden needs to be placed on MDE to ensure that a bad situation isn't getting worse. As is the case with Valley Proteins, MDE administratively continued their permit since 2006 and Valley Proteins has been

Main Office
114 S. Washington St.
Suite 301
Easton, MD 21601
443.385.0511

Regional Office
111A North Main St.
Galena, MD 21635
410.810.7556
shorerivers.org

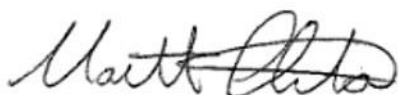
Regional Office
207 S. Water St.
Unit B
Chestertown, MD 21620
410.810.7556

in significant noncompliance with that permit for at least the last five years.¹ By executing monthly random inspections, MDE will be able to catch these violations before they become a greater issue for local water quality.

Aside from point source discharges, the Eastern Shore is scattered with groundwater discharge permits that allow the spraying of wastewater as irrigation on farm fields. This permitting program is flawed in many ways but primarily it jeopardizes the work under the Chesapeake Bay TMDL to reduce nutrient pollution because it assumes no pollution reaches waterways. However, MDE compliance and inspection data show that these facilities are commonly in violation of their permits. In the first half of fiscal year 2020, 23 of 41 (56%) inspections of groundwater permits resulted in a finding of “noncompliance” or “corrective action,” whereas only 29% of inspections results in a finding of full compliance. Examination of data from the past four fiscal years reveals similar findings, with only 80 of 317 inspections (25%) om compliance. And on the Eastern Shore the rate of noncompliance was similar, with 58 out of 108 (54%) inspections ending in noncompliance.²

This bill is necessary to prevent another environmental disaster like that at Valley Proteins from happening again in Maryland. This bill is necessary for MDE to recognize the resources and level of work needed for it to adequately administer and manage the pollution discharge permitting program. This bill is necessary to ensure proper oversight and protection of our state’s waterways. **For these reasons we ask the committee for a strong and favorable report of HB649.**

Sincerely,



Matt Pluta

Choptank Riverkeeper, on behalf of:

ShoreRivers

Isabel Hardesty, Executive Director

Annie Richards, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper

Elle Bassett, Miles-Wye Riverkeeper | Zack Kelleher, Sassafras Riverkeeper

¹ <https://echo.epa.gov/detailed-facility-report?fid=110000340685>

² <https://www.chesapeakelegal.org/guides-resources/groundwater-permit-and-spray-field-advocacy-opportunities-in-maryland/>