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Maryland Environmental Organizations Seek Judicial Review of New Valley Proteins Wastewater Permit

On Friday, Chesapeake Bay Foundation (CBF), Dorchester Citizens for Planned Growth (DCPG), Friends of the Nanticoke River, ShoreRivers, and Wicomico Environmental Trust filed a legal challenge against Maryland Department of the Environment's (MDE) newly issued wastewater discharge permit for Valley Proteins' animal waste rendering plant in Linkwood.

The environmental organizations are challenging the permit due to the potential for the plant's pollution discharges to contribute to unhealthy water quality in the Transquaking River, Higgins Mill Pond, and Chesapeake Bay. The lawsuit was filed in Dorchester County Circuit Court.

"MDE relied on insufficient data about the Transquaking River and its watershed when issuing this permit," said CBF's Eastern Shore Director Alan Girard. "While the agency claims the new permit would reduce pollutants, it doesn't ensure water quality will be protected. The amount of pollution that MDE permits Valley Proteins to release into Dorchester County waterways will continue the long-term, well-documented harm this facility is causing in the Transquaking River watershed. The agency that issued the permit under the previous Governor's administration must be held accountable for not meeting its obligation to protect water quality as required by federal law."

The permit would not require Valley Proteins, now owned by Darling Ingredients, to make any significant changes to their operations for three years. It also allows the company to expand its wastewater discharge from an annual average of 150,000 gallons per day up to 575,000 gallons per day if the plant meets some slightly higher requirements for ammonia, biochemical oxygen demand, and dissolved oxygen. The plant's previous five-year permit expired in 2006 and was not updated for 16 years, making it one of the longest administratively extended permits in the state's history.

Under the law, the new permit is supposed to ensure that Higgins Mill Pond and the Transquaking River are safe for swimming, fishing, and wildlife habitat.

The water quality impairments where the plant discharges are well documented. Valley Proteins is the only point source polluter on the Transquaking River and, according to MDE documents, contributes about 40 percent of the river's nitrogen pollution. In Higgins Mill Pond on the Transquaking, just downstream from Valley Proteins, fish kills have occurred, the water is not always safe for recreation, and aquatic life has decreased. Harmful algal blooms have been recorded in the pond, with a sign posted next to it warning residents not to touch the water.

In September 2022, the [company settled a lawsuit](#) with ShoreRivers, DCPG, CBF, and MDE related to past violations of the prior permit. That settlement required the company to pay \$540,000 in civil penalties to the state and \$135,000 to the non-profit petitioners for funding water quality monitoring and restoration. It also required Valley Proteins to investigate groundwater at the site and make facility and process improvements.

“We appreciate the efforts of the Maryland Department of the Environment to address the large volume of public comments that were received concerning the discharge from Valley Proteins. But, despite some improvements in water quality protections and discharge limits in the renewed permit, the agency appears to prioritize the interests of the operator over the health of the Transquaking River and the safety of our Eastern Shore residents,” said Matt Pluta, Director of Riverkeeper Programs at [ShoreRivers](#). “Even with a Total Maximum Daily Load, or ‘pollution diet’ for the river issued in 2000, the Transquaking continues to show signs of degrading water quality with harmful algal blooms, high bacteria levels, and an overabundance of nutrients. Valley Proteins has spent years violating pollution controls, failing to modernize their wastewater treatment plant, and discharging unauthorized waste materials, and now is the time to chart a better path forward.”

MDE used information from the nearby Chicamacomico River to estimate whether the Transquaking River and downstream waters could handle the pollution from Valley Proteins. Unlike the Chicamacomico, the Transquaking has an impoundment that impedes its flow and creates Higgins Mill Pond. The Valley Proteins outfall is above the pond where effluent from the plant can linger an average of nine days. This creates conditions that fuel harmful algal blooms, low oxygen dead zones, and wildlife impacts, especially in hot weather.

“The proposed four-fold increase in wastewater discharge volume will only result in the death of the river unless the current treatment technology is brought to a much higher standard,” said Fred Pomeroy, President of the Board of Directors of [Dorchester Citizens for Planned Growth](#) (DCPG), a citizens group which has been trying since 2014 to get MDE to establish strong pollution limits for the rendering plant. “MDE should not allow Valley Proteins to dump increasing volumes of polluted wastewater into the Transquaking and the Chesapeake Bay. The technology exists for the company to clean up their operation, and it is incumbent on MDE to require them to do so.”

Jay Martin, President of [The Friends of the Nanticoke River](#), noted the group joined many other citizens in the fall of 2021 in providing written and public testimony regarding the permit for Valley Proteins. “We are dismayed that our and others’ expressions of concern appear to have been dismissed. The effects of overwhelming nutrient pollution of the Transquaking River propagate downstream and have the potential to measurably degrade the water quality of Fishing Bay and of the Lower Nanticoke River,” Martin said.

"We're concerned about the effect of a massive increase in the rendering plant's discharge to groundwater, which could imperil the health of residents throughout the Lower Eastern Shore area, particularly those who rely on well water," said Madeleine Adams, President of the [Wicomico Environmental Trust](#). "The way we treat our water has far-reaching implications, given the interrelationship of the health of the watershed and quality of life, public health, and the economic health of the region."

The lawsuit seeks to remand the permit back to Maryland Department of the Environment so the agency can address deficiencies, protect water quality and communities from harm, and fully comply with the law.

Until recently, MDE inspections and enforcement activity were [declining at an alarming rate](#). Maryland's new Governor has [pledged \\$3.7 million](#) to help MDE fill staffing vacancies and deal with an extensive backlog of administratively extended permits like the one renewed for Valley Proteins.

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