

9 groups sue agriculture department

Riverkeepers seek access to Md. farm pollution plans

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The Chesapeake Bay's riverkeepers are suing the Maryland Department of Agriculture because they've been denied the opportunity to view pollution reports filed by farmers.

The riverkeepers — who are paid advocates for local waterways — said it's vital to know just how much pollution is generated from farms and how it's being dealt with. But they claim they've been stonewalled in attempts to get that information.

The lawsuit was filed this morning in Anne Arundel County Circuit Court, alleging the state is violating freedom of information laws by not releasing the reports, which are called nutrient-management plans.

The lawsuit was jointly filed by the Waterkeeper Alliance and eight of the group's local members: Asateague Coastkeeper, Baltimore Harbor Waterkeeper, Lower Susquehanna Riverkeeper, Patuxent Riverkeeper, Potomac Riverkeeper, Severn Riverkeeper, South Riverkeeper and West/Rhode Riverkeeper.

It aims to have a series of denials overturned, as well as unrestricted access to the plans in the future.

"We need to know what's going on at the farms because, like everyone else, there should be transparency about how much manure they are discharging into the river, so we can know how we can help them reduce the discharge and stop polluting the waterway," said Fred Kelly, the Severn riverkeeper.

Bob Gallagher, the West/Rhode riverkeeper, said agriculture remains the largest category of bay pollution.

He's fielded complaints in south county about animals being allowed to wade into streams (where they might defecate into the water) and piles of uncovered manure.

"I observed myself, most recently on Saturday after the rain, huge amounts of runoff in some of our creeks coming off farmland," Mr. Gallagher said. "We don't currently have the ability to find out even whether those particular farmers have filed their nutrient-management plans, much less what practices they're required to follow."

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The riverkeepers said farms should be treated no differently than sewage-treatment plans or other sources of pollution.

Farms can be sources of sediment and nutrient pollution. Sediment that runs off of farms can smother plant and animal life in waterways. And excess nutrients such as nitrogen and phosphorus touch off a cycle leading to excessive algae growth that sucks life-sustaining oxygen from the water when it decomposes.

The riverkeepers made clear that their lawsuit isn't an anti-farmer action; rather, they want to ensure transparency from the government.

The riverkeepers, who are represented by the University of Maryland Environmental Law Clinic, are suing under the Maryland Public Information Act, which gives citizens a right to review government

documents. According to the lawsuit, Department of Agriculture officials have cited another law that requires them to keep identities confidential of farmers who file nutrient-management plans.

The riverkeepers disagree with the department's interpretation of the law and are seeking to have it declared unconstitutional as part of the lawsuit.

Officials at the Department of Agriculture said they couldn't comment this morning because they hadn't fully reviewed the lawsuit.

But last week, the department issued a press release touting progress in getting farmers to file their reports.

The nutrient-management plans were established in 1998 and require farmers to protect streams and other waterways from harmful runoff that comes from plant fertilizer or animal manure.

As of the end of 2007, 97 percent of the state's 6,100 farmers who were required to file nutri-

ent plans did so, according to the Department of Agriculture. Also, 94 percent have filed "implementation reports" that show their progress, according to the department.

"Our latest compliance figures for the agricultural nutrient-management program speak for themselves," state agriculture Secretary Roger Richardson said in a statement. "Maryland farmers and other nutrient applicators are by and large complying with the nutrient-management law. Enforcement actions are under way to bring the few remaining farmers who do not have plans into compliance."

But the riverkeepers don't want to have to trust Mr. Richardson at his word. They want a look for themselves.

Without being able to review the reports, Mr. Kelly said, "there's no way to verify their spin on the situation because there's no transparency."