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## Welcome to Our First Newsletter March 2006

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Greetings!

The yellow perch was once plentiful in the West and Rhode Rivers. Each spring thousands of them would gather to spawn in Muddy Creek. It has now been more than two decades since yellow perch spawned anywhere in the West or Rhode Rivers. The reason the yellow perch disappeared is the same reason that oysters and other formerly plentiful Bay creatures have disappeared – pollution. The mission of West/Rhode Riverkeeper is to stop and reverse the effects of pollution in the West and Rhode Rivers. We will accomplish that by monitoring the Rivers to identify and eliminate sources of pollution. Perhaps more importantly, we will do it by building a strong community-supported organization that creates a voice loud enough to let government officials know that we care.

In this and future issues of this Newsletter we will describe the projects we are working on and projects we are planning. We will let you know about opportunities for you to learn more about sources of pollution and ways to reduce or eliminate pollution. We will tell you about opportunities to participate in monitoring the Rivers, restoring shorelines and habitat, and about other ways you can help that fit your schedule and your interests. You can also find more information on our website at: www.westrhoderiverkeeper.org. Please, if you live, work or play around the West and Rhode Rivers and care about stopping pollution, complete, detach and mail back to us the simple form found at the end of this Newsletter. It does not obligate you to do anything or contribute

anything. It merely allows us to count you as a supporter of our work and, only at your request, to send you subsequent issues of this Newsletter or advise you of other ways you can help.

Our History So Far

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We have all read that the Bay got another terrible report card and that the “dead zone” this year was the biggest ever. At the same time, federal and state governments are reducing funding for Bay clean-up and weakening anti-pollution laws. Most of the problems with the Bay originate in the creeks and rivers that flow into it. We can help reduce pollution in our Rivers and the Bay by, for example, monitoring compliance with anti-pollution laws, restoring eroded shorelines and getting the word out about reducing storm water runoff and proper use of fertilizers. But, because the problems are so big and the real solutions so expensive, we won’t be fully successful until our elected officials give the issue a higher priority.

The way to make that happen is for every community around the Bay to support community-based watershed groups that advocate for the clean up of our rivers and the Bay. West/Rhode Riverkeeper was organized in January 2005 for just that purpose. Bob Gallagher, a retired lawyer who has lived in Shady Side since 1994, founded the organization and is the West/Rhode Riverkeeper. Our first year has been a busy one. Thanks to widespread support from the community, it has also been a successful one.

Some of our accomplishments are listed below:

- In April 2005 we began regular patrols of the Rivers by boat. You may have seen our bright red 22-foot runabout with

"Riverkeeper" in bold letters on each side. Thanks to a volunteer pilot, we also have flown over the area several times.

- We have organized several groups of Creek Watchers - residents around a creek or river segment who watch for pollution problems.
- We have met with most of our state and county elected officials and senior employees of many of the relevant state and county government agencies to learn about what they are doing and to tell them about our concerns.
- We have asked the University of Maryland, Environmental Law Clinic to conduct a study of whether the Maryland Critical Area Act has been enforced properly. See the article below for a description of the Critical Area Act.
- Working through the Department of Natural Resources we have secured the removal of two abandoned boats that posed pollution and navigation threats.
- We have testified before the County Council and the General Assembly on storm water issues, critical area enforcement and other issues.
- We have investigated and followed up on nearly 50 questions and complaints from residents concerning pollution issues.

Some of the projects we are considering for this year include:

- Construction of a living shoreline along a heavily eroded section of waterfront at the Shady Cove Natural Area in Shady Side.
- Creation of environmental education programs for one or more local schools.
- Reviewing the feasibility of a "pump-out" boat to serve the West and Rhode Rivers.

In January 2006 we opened an office at Discovery Village in Shady Side. This would not

have happened without the generosity of Adam Hewison, the founder of Discovery Village. We also hired Amy Colhoun as our first part-time employee. Amy, who lives in Harwood, serves as Program Director. She works on fundraising and organizing and directing volunteer efforts. These developments were made possible by a grant from the Campbell Foundation for the Environment. The Campbell Foundation grant matches dollar-for-dollar contributions we raise in the community.

We decide on what projects to get involved in based on feedback we get from the community. We welcome any ideas or suggestions you might have. Give us a call, come by the office or make a date to go out on patrol with us. At our First Annual West/Rhode River Wade-In you will have a great opportunity to meet Bob, Amy and other volunteers. The Wade-In will be on Saturday, May 13th, at the Smithsonian Environmental Research Center (SERC) on Contee's Wharf Road in Edgewater, Maryland. It will be held in conjunction with SERC's Annual Open House and will begin at 9:30 a.m. on the waterfront. We expect participation from several elected officials including Maryland State Senator Bernie Fowler who started the first wade-in on the Patuxent River 20 years ago. After the wade-in, there will be plenty of interesting things to see and do around the SERC property, as well as food and drinks. See our website ([www.westrhoderiverkeeper.org](http://www.westrhoderiverkeeper.org)) and SERC's website ([www.serc.si.edu](http://www.serc.si.edu)) for more information.

### **The Maryland Critical Area Act**

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The more development an area has, the more polluted its waters are likely to be. Much of the pollution caused by development comes from runoff. As trees and fields are replaced with roofs, roads and parking lots ("impervious surfaces"), rainwater that would otherwise soak into the ground washes trash, fertilizer, motor oil, silt and other pollutants into streams, creeks, rivers and the Bay. Research conducted by the Smithsonian Environmental Research Center demonstrates that, once a watershed reaches 8 – 10 percent impervious surface, the water quality

of that watershed and the wildlife it supports begin to decline. The land closest to the water is the most sensitive and the most in need of protection from development.

More than 20 years ago, the Maryland General Assembly passed the Critical Area Act to protect the land closest to the Bay and its tributaries from intensive development. Generally, development of land within 1000 feet of the Bay and its tributaries (the “critical area”) is closely regulated. Development density in traditionally rural areas (Resource Conservation Areas) is limited to one house per twenty acres. More developed areas may receive more intense development. Land within 100 feet of the Bay and its tributaries (the “buffer” area) is subject to even more stringent regulation. It may not be developed or otherwise disturbed without specific permission from the county or the state and such permission may be given only for specified reasons. Thus, the rules applicable to the buffer prohibit building any new structure such as a house or a pier, grading, removing trees or shrubs without a variance or, in the case of removing trees, without a buffer management plan approved by the county. Rebuilding or replacing an existing house or pier may be permitted if it doesn’t exceed the size of the old one.

The county enforces the Critical Area Act and is required to conduct inspections to make sure that work isn’t done in the critical area without required approvals and that work done is consistent with permit conditions, for example, using silt fence to prevent runoff of silt into the water.

Many of you have read about the controversy surrounding the building of a house and other improvements on Little Dobbins Island. All of Little Dobbins Island is in the critical area. The owner built a house and other structures and graded the buffer without the required permits or a variance. The county never tried to stop it and, after neighbors complained, the county supported the owner’s request for retroactive permission. The county never assessed any fines or penalties. The owner is a builder who was

fully aware of the requirements of the Critical Area Act.

During the last year, neighbors have reported to me similar though less dramatic examples of the county’s failure to enforce the Critical Area Act around the West and Rhode Rivers. Some complain there is no enforcement at all. Others complain that the only enforcement is against the homeowners who cut down a tree without knowledge of the law, while developers violate the law with impunity.

While these complaints seem to be supported by things I have seen, I don’t have all the information. That is why I have asked the University of Maryland Environmental Law Clinic to perform a study of Critical Area Act enforcement. If it turns out the law is not being enforced as it should be, we will look for ways to require the county and the state to enforce it. If it turns out that there are problems with the law that make it difficult to enforce, we will consider proposing changes to fix the law.

Volunteer Spotlight

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Mike Lofton lives in Harwood. He keeps his boat at Shady Oaks Marina and enjoys fishing in the West and Rhode Rivers and adjacent waters of the Bay.

Not long after an article appeared in The Capital reporting the start-up of West/Rhode Riverkeeper, Mike called to ask how he could help. He spent a couple of hours with me on patrol one morning, talking about his love of the water and his concerns about the future. It was clear that he really wanted to help. He said it didn’t matter what the project was and it didn’t have to be on the water. He said he was willing to do research, make phone calls, write letters or whatever was needed.

Not long after that, a neighbor reported that the county had given a developer permission to build several waterfront houses on the condition that the developer deed some adjacent land to the county for “open space.” The story was that the open space was never deeded to the county but sold by the developer. Mike dug into the land

records and found that the story had gotten confused in the telling. The developer was required to preserve open space and did so through easements or covenants in the deed.

A few months later, we decided to approach the owner of a large waterfront property about putting the property under a conservation easement to prevent intensive development of the property at a later time. Before we did that, we wanted to have a clear idea of what easements or other restrictions already existed on the property. Mike readily agreed to do the research and provided the information we needed.

Mike is just the first of many examples of people who have contributed their time and talent because they believe we can make a difference. Thanks Mike!

**The News**

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PCBs Found in West/Rhode White Perch

The Clean Water Act requires Maryland periodically to list all of its “impaired” (polluted) bodies of water and the polluting substances. The West and Rhode Rivers have been on the list for years because of pollution from bacteria as well as excessive nutrients (nitrogen, phosphorous, etc.). In January, the Maryland Department of the Environment published a draft revised list. The list indicates that polychlorinated biphenyls (PCBs) have been found in the flesh of white perch from the West and Rhode Rivers. PCBs are a known carcinogen. MDE notes that this doesn’t necessarily mean that the PCBs recently entered the water. Rather, the findings may be the result of improved monitoring. That’s comforting.

The Maryland General Assembly is in Session
That means there is great potential for good and for mischief. Some of the bills introduced this

Contact Information

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web: <http://www.westrhoderiverkeeper.org>

session could impact pollution in our Rivers and in the Bay include:

1. Clean air legislation that would force the clean up of Maryland’s oldest coal-fired power plants. These power plants are among the dirtiest in the country. A large share of the pollution in our Rivers comes from dirty air;
2. Open space funding. For a number of years part of the transfer tax on real estate was supposed to go into a fund to be used to acquire land to preserve “open space.” The governor has used that money for other purposes in each year until 2006. This legislation would stop the diversion of open space funds and require the repayment of amounts previously diverted; and
3. Legislation that would restrict development that would have an adverse impact on a National Wildlife Refuge. This proposal is in response to efforts to create a 3200-unit development just upstream from the Blackwater Wildlife Refuge on Maryland’s Eastern Shore. Federal managers of the refuge believe that the development would threaten the refuge.

Check Out the View

For those of you who live near or visit Tenthouse Creek off the West River, a huge rusting barge aground in the middle of the creek has been part of your view for more than 20 years. Many people assumed it belonged to Smith Brothers; it did not. Smith Brothers and others have made unsuccessful efforts to have it removed. I made several calls to the Department of Natural Resources that also were unsuccessful.

Last Fall, Speaker of the House of Delegates Mike Busch made a tour of the West and Rhode Rivers. I asked him for his help in removing the barge. I also provided him with information about the owner, a company headquartered in Edgewater. In early March, the owner, under threat of fines from DNR, paid to have the barge removed. Thank you Speaker Mike Busch!

How can you help? Visit our web site for suggestions. Go to the What Can I Do? section.