

CITIZENS FOR A BETTER EASTERN SHORE

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The Search for Answers to the Problem of Water Pollution from Poultry Production on the Delmarva

By Roberta Kellam

In spite of advances in technology, robust regulations and significant investments of both federal and state funds, nutrient pollution (nitrogen and phosphorus) continues to degrade both the surface and groundwater resources of the United States. Animal manure from livestock operations, although beneficially used as a fertilizer and for soil structure improvement, can be both a solid waste and a source of water pollution in some circumstances.

The federal Clean Water Act, as early as 1974, identified “Concentrated Animal Feeding Operations” (CAFOs), including poultry houses, as “point sources” of water pollution discharges that must be regulated. In addition, Congress recognized the threat to water quality from agriculture operations (including manure use as fertilizer and other agronomic additions to land) in the 1987 Amendments to the Clean Water Act, which identified agricultural stormwater runoff as a nonpoint source of pollution.

State/Federal Agencies Identify Livestock Production/Waste Pollution

In 2009, the US Environmental Protection Agency convened a state-federal *ad hoc* working group, called the State-EPA Nutrient Innovations Task Group, to assess the current and innovative new strategies that address the adverse effects of nutrient pollution in the Nation’s waterways. As noted by the Task

Group, “the spreading environmental and drinking water supply degradation associated with excess levels of nitrogen and phosphorus in our nation’s waters has been studied and documented extensively.” In summarizing the literature review of existing studies, the Task Group noted that a 2008 US Geological Survey study found that 26% of the nitrogen and 26% of the phosphorus entering the Chesapeake Bay originated from livestock production (primarily poultry). Row crop production contributed 17% of the nitrogen and 19% of the phosphorus entering the Chesapeake Bay. On a national level, the amount of animal manure produced far exceeds the amount of human fecal matter that is processed through municipal waste water treatment plants – more than one billion tons of animal manure per year vs. 18 million tons of human fecal material. When animal manure or other fertilizer is applied at agronomic rates for crop production, the average uptake by crops is only about 30% of the available nitrogen. The remaining nitrogen has the potential to become a waste product in the environment. (See “*An Urgent Call to Action: Report of the State-EPA Nutrient Innovations Task Group*,” August 2009.)

The unfortunate conclusions of the State-EPA Nutrient Innovations Task Group are that current levels of efforts have been “collectively inadequate” to address the degradation

of water quality, and the detrimental impacts from nutrient loading are expected to increase as population, agriculture, and transportation needs increase. In the Chesapeake Bay watershed, the current 18.1 million residents will surpass 20 million by 2030. Although future growth of the poultry livestock production is unknown, it should be noted that between 2001 and 2016, poultry production on Delmarva increased from three billion pounds to four billion pounds.

Bay Watershed Group Also Addresses Livestock Waste Pollution Problem

In August 2015, a non-regulatory working group, made up of government, environmentalists, farmers and scientists, was formed to specifically address poultry litter management in the Chesapeake Bay watershed.

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**Register for the
2017 CBES Bike Tour
at www.cbes.org**

Water Pollution, Cont'd from p. 1

Calling itself the “Delmarva Land and Litter Challenge,” this *ad hoc* work group recommended focusing efforts on: (1) Responsible land application of animal manure and litter, and (2) Alternative uses and markets for manure/poultry litter. The efforts to achieve items 1 and 2 were to be informed by the following steps:

1. Create and support a landscape scale, multi-stakeholder leadership platform for addressing agricultural nutrient pollution
2. Invest in mass balance of nutrients research and analysis (the scope of the mass balance study is to examine the nutrients “entering and leaving Delmarva as feed-stocks, fertilizers and agricultural products”)
3. Support and fund a virtual poultry nutrient management resource and demonstration program
4. Standardize regulations for manure and litter storage, transport and use
5. Create and fund financing mechanisms that support bundled technologies.

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“ESVA Poultry Project” Presents a Plan to Determine Livestock Waste Impact

According to a February 8, 2016 letter from Richard Snyder, Director of the VIMS Eastern Shore Lab to Stephen Miner, Accomack County Administrator, both the VIMS Eastern Shore Laboratory (ESL) and the Virginia Tech Agricultural Research Extension Center (AREC) have been engaged with the Delmarva Land and Litter Challenge. In recognizing that the Delmarva Land and Litter Challenge does not address the capacity for the Eastern Shore of Virginia to “assimilate an expanding poultry industry,” Mr. Snyder proposed the “ESVA Poultry Project,” which would:

1. Address a mass balance of nutrients for the ESVA
2. Determine the ability of the region to utilize poultry litter as a soil amendment/fertilizer
3. Determine impacts to terrestrial and aquatic environmental health
4. Review the available scientific literature on poultry impacts, and solicit literature and topics of interest from concerned citizens and local government officials for review
5. Engage the general public and local government officials in a dialog about available science regarding integration of an expanding poultry industry into the ESVA environment

A Project Is Funded, Strategies Established and Deadlines Set

Subsequent to the February, 2016, presentation to the Accomack County Board of Supervisors regarding the “ESVA Poultry Project,” the partnership of VIMS ESL and the AREC requested funding from the Eastern Shore of Virginia Community Foundation for a project entitled “Poultry Expansion on the Eastern Shore of Virginia: A Public Education Project on Regional Poultry Impacts.”

The ESVA Community Foundation website states that a grant

of \$30,000 was provided in 2016 in support of this project. According to the grant application, the issues addressed in this project include:

1. Nutrient mass balance for the poultry industry modeled after work completed in Delaware regarding nutrient imports and exports
 - a. Tracking nitrogen (N) and phosphorus (P) within the poultry industry
 - b. Inorganic fertilizer offset for agronomic producers
 - c. N and P assimilation capacity in ESVA soils
 - d. Crop nutrient removal
2. Potential N and P loading to waterways from various production components
 - a. Poultry litter
 - i. Existing Best Management Practices for storage
 - ii. Distribution and application methods
 - iii. Effect of added organic matter on soil N and P dynamics
 - iv. Field volatilizations, leaching and runoff
 - v. Improved BMP recommendations
 - b. Fate of dust and volatile air emissions of N and P
 - c. Composting carcasses
 - d. Processing plant effluents
3. Emerging technologies to assist with nutrient handling and fate
 - a. Downdraft high-density polyethylene (HDPE) floor systems
 - b. Manure to energy systems
 - c. Poultry litter additives
 - d. Poultry litter injector
4. Other issues that may be important to the discussion
 - a. Mobility of hormones
 - b. Human health/microbial impacts
 - c. Bird disease impacts

See *Water Pollution, cont'd on p. 7*

Cape Charles – February 7, 1999

By Mary Miller

It was almost 20 years ago when the *Baltimore Sun* discovered Cape Charles. The feature story headline read: “**Real estate, development boom reawakens Cape Charles.**”* “‘For Sale’ signs are sprouting on residential and commercial properties and newcomers are snapping up second homes, investment properties and rentals so fast that local real estate agents can barely keep up.” “Investors willing to take a chance have found Cape Charles a good risk,” said a realtor. The example of a Charlottesville, VA, couple who bought two small houses for about \$33,000, then sold them for \$132,000 in just a few months, seemed to prove the point.

The mayor at the time: “...this is amazing.” A local realtor reported selling run-down houses for \$20,000 to \$30,000, and saw the beginning of a “renaissance.” A community activist, speaking for the poor and elderly in substandard rental housing, voicing fear of the possibility that as investors buy the run-down rental units, rehabilitate them, and raise rents, “...we can see that this isn’t going to be a place for poor people.”

But wait, there’s more! According to the article, news of an innovative “eco-industrial park” and a 2,000-acre golf course community, conference center and resort will soon lift Cape Charles and Northampton County into “prosperity not seen since the town’s pre-World War II heyday,” say supporters. Officials had just announced the first tenant for the 200-acre industrial park. “The company plans to hire 50 workers, virtually all of them at wages above the median family income” in the county. And Town leaders say the golf course project will provide hundreds of jobs and pump millions into the local economy. The development will include a 200-room hotel, two golf courses, a marina, nearly 120,000 sq. ft. of commercial space and half a dozen swimming pools, and could grow to 3,000 residential units.

A spokesman for the golf community development ended the story like this: “What we know is that the baby boom generation is coming. Whether the economy is good or bad, the boomers are coming. It would take some catalytic [*sic*] economic problem to prevent them from retiring in style.”

Fast Forward to Present

We know of course, that the “catalytic” economic problem” happened: the economy collapsed in 2007 and took the housing market down with it. The Great Recession began. Cape Charles weathered yet another blow to its climb out of its own decades-long recession. Many of those new and restored residences went into foreclosures or were divested in short-sales. “For Sale” signs again lined many blocks. Commercial buildings stood empty. The



Town business owners can “take it outside” on balmy days. Staff photo

eco-industrial park failed and was sold at a loss. The conference center and 200-room hotel with those hundreds of jobs and the half-dozen swimming pools never materialized – and many of the baby boomers moved to apartments in small cities, headed to the sunbelt, or tightened their belts and stayed put.

But the Town pulled itself together. Many of those “investors” decided to stay and make the town their home. Volunteers and private investors restored an old theater and brought Central Park back to a gracious new life, empty homes found new owners, and very slowly the commercial district came back to life. Build-out in the golf community slowed to a crawl but now is starting to pick up. Boating and wedding destination venue patrons fill the restaurants and shops every weekend, the beach still attracts families and sun worshipers, a farmer’s market sets up once a week, and music performances, movies and live theater provide a vacation backdrop for weekly house renters, day-trippers and campers coming into town. The harbor now is home to a yacht center, and the first new building in decades on Mason Avenue is almost completed. Although many of the old substandard rental units no longer exist, just as the community activist foretold, the town still retains two multi-unit subsidized housing facilities, one for low-income families and one for elderly and disabled residents.

The “renaissance” that the realtor saw coming almost 20 years ago may have been a premature projection. But a stroll through town on a Saturday afternoon this summer shows that a slower, steadier path to that renaissance seems to be working.

*Chris Guy, *Baltimore Sun* Staff, Feb 7, 1999



Shore Artist Paints Between the Waters

By Donna Bozza

God's Little Acre. That's what Bethany Simpson's best friend – her granddad – called the Eastern Shore when she was growing up playing in the remote beauty of Red Bank, a wild twist of blue waters and emerald green marshes on Northampton County's seaside.

"My mother didn't believe in TV, so we were forced to get out and in nature," the 27-year-old artist explains, adding a "Thank God" and a bright smile for emphasis.

Being homeschooled, she had more time to build forts, hunt for arrowheads, and go crabbing, all while her senses were immersed in a sea and sky world. Now as an adult, this inspiring panorama flows from her paint brushes.

Bethany's paintings breathe brilliant life into Shore scenes with the brightest blues and greens, the intense orange and reds of local sunsets, and rivers of vivid yellow and magenta. She sees a connection between her style and that of Fauvism, the first twentieth-century movement in modern art. A group of aligned French painters shared the use of intense color as a vehicle for describing light and space, and redefined pure color and form as a means of communicating the artist's emotional state.

Bethany's work has also been called "coastal folk art," a description she welcomes. Many of her paintings depict the quintessential elements of the Shore's waterside villages: deadrise boats, crab shacks and docks, often inhabited by a waterman in white boots, his black lab silhouetted against a rainbow of primary colors. When the subject is local farms, it's a surprise of rows and rows of extraordinarily colorful crops, perhaps not found in nature but instead in the passion of imagination.

In all Bethany's work, the joy between painter and subject is palpable. "Loving the Shore, I never get bored of painting the Shore," she said. "I'm so blessed to be able to do the work I love and earn a living."

And don't even talk to her about leaving her home shores. "Why? If I left I know I'd be right back here."

As a child, Bethany felt a calling to be a painter but that nearly was derailed by her own disappointment in not being able to emulate her mother's talents as a realist painter. "I tried and tried but realism – it just wasn't working for me," she said. "I was upset because I always believed I was born to be an artist."

It wasn't until she was 20 that Bethany decided to try painting again on her terms. Though she appreciates the beauty of realism she says her style is more "messy, crazy," also "busy" in a fascinating way.

"I like to cram the canvas, cover it with little details," she laughed. "A man who bought one of my paintings



CBES is honored to celebrate our 25th Anniversary Between the Waters Bike Tour with an original design by Shore artist Bethany Simpson, who graciously donated this remarkable painting. Staff photo

texted me the other day, "I just now noticed this little boat."

After selling her first painting to a very appreciative buyer, the creative light bulb went off – the idea of painting for a living could be a reality and now seven years later it is. She is a resident artist at the Lemon Tree Gallery in Cape Charles and her paintings fly off the bistro walls of The Machipongo Trading Company on Route 13. Her work is also showcased on her Facebook page: Bethany Simpson, Artist, and soon she will have a website. She does commission work as well.

When not painting, Bethany and her boyfriend work at restoring a century-old house in Nassawadox. The tiny town's Native American name means "land between two waters," the identical theme for which Citizens for a Better Shore approached Bethany.

It being the 25th Anniversary Between the Waters Bike Tour, CBES wanted to promote the event through the creative eye of a local artist. In the beginning years of the tour, T-shirts were printed with the popular work of Eastville artist Mary Sawyer Miller, who graciously donated her Eastern Shore vignettes, to the delight of cyclists.

For the first time, the tour will have professional bike jerseys for sale. A vibrant design was needed that also embraced the essence of what makes the region so special. Bethany's work was the perfect fit.

She enthusiastically embraced the purpose of the Bike

See Shore Artist, Cont'd on page 5

General Assembly Wrap-up

For the past several years local governments have not received much good news at the end of General Assembly sessions – more regulations handed over to local staffs, more expenses shifted to localities, and a chipping-away at local government’s authority, especially for taxation and land use. This year there was more good news than bad for localities.

First, some good news:

Bills that passed, and/or were substantially altered or left in committee, to the benefit of localities:

- More money was made available for local police, teachers and state supported local employees, in spite of an attempt to reduce funds for local police.
- Localities now have the authority to adopt ordinances to create Arts Districts and Working Waterfront Districts. The ordinances can include incentives and tax and regulatory exemptions to encourage economic development.
- Short term rentals (up to 30 days) offered privately, or through services like Airbnb and VRBO, can now be subject to local registration – fees up to \$100 per property may be charged, and penalties of up to \$500 for persons offering unregistered properties for rent may be imposed. Localities must create, operate and administer this registration requirement before fees and penalties can be imposed. This should make the collection of the Transient Occupancy Tax more efficient for the localities and more equitable for hotels and B&Bs, which now must obtain local business and occupancy licenses to operate. Further motivation for this action came from communities where these short-term rentals were being used as event venues by the renters. So in addition to these land use provisions, the bill also requires short-term rental operators to obtain an ABC license before they provide alcoholic beverages to customers.
- Despite vigorous opposition and lobbying by the telecommunications industry, and equally vigorous action by local governments, localities will retain zoning authority and most regulatory authority for siting of telecommunication facilities. The bill as submitted would have pre-empted local authority over placement of facilities, including large towers, virtually free of charge, essentially creating a public subsidy of private facilities.
- An Agritourism bill was considered that would have expanded agritourism to include rental residences on farms. The bill placed no limits on size or number of units on one piece of property, or the number of people to be housed. The units would be exempt from local

zoning regulations. Opposition to the bill increased during the session and it was left in subcommittee.

And some continued bad news for local land use authority:

In 2011, in support of relief for the housing industry, the General Assembly removed authority from localities to attach time limits to special exception, conditional use, or Special Use Permits, even if those requirements were part of the locality’s Zoning Ordinance. Time limits had ensured that the permitted projects, for either residential or commercial development, were begun in a timely manner, and that the permits were not used primarily to increase the property’s resale value.

The time limit exception was increased again, to 2017. An attempt was made to increase the exception for another five years, but opposition this year resulted in a compromise of only a three-year extension to 2020. Both Senator Lynwood Lewis and Delegate Robert Bloxom voted in favor of this action.

Then some planning for the future of local governments:

Fiscal stress of a locality: A joint subcommittee has been established and tasked with identifying issues and potential solutions related to fiscal stress in a locality; this discussion has been ongoing since 1984. They will develop a proposed system of financial and other indicators to serve as an early warning mechanism to signal the presence of possible local fiscal distress. A locality’s fiscal stress is defined as a situation whereby the provision and sustainability of public services is threatened by various administrative and financial shortcomings, including but not limited to:

See General Assembly, Cont’d on page 7



Shore Artist, Cont’d from p. 4

Tour mantra “Pedal to Protect the Eastern Shore” and agreed to paint and donate a special work.

“I love what CBES does and this is a way I can help,” she explains. “I want to see the Shore protected, its history, its culture, and not turned into Ocean City. I want my sister’s kids, and maybe someday my kids, to have what I had.”

Tickets for a raffle of Bethany Simpson’s original “Between the Waters” 16” x 20” acrylic painting can be found on www.cbes.org for \$20 per chance or 3 chances for \$50.

To purchase cycling jerseys and more cyclist clothing with Bethany Simpson’s “Between the Waters” design, please go to the CBES website at www.cbes.org.

Bethany Simpson can be reached at paintesva33@hotmail.com.



Keeping Track

Shoreline Destruction Found Illegal



From wetland to wasteland... Submitted photo

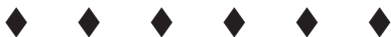
The system is working – so far. Last year, in response to a tip that environmental damage was being done to shoreline property on Old Neck Road in Northampton County, the county Wetlands Board scheduled a visit. What they found was 3 acres of clear-cut water front, piles of debris, and groundcover removed by heavy machinery.

Significant disturbance and damage had been done to tidal and non-tidal wetlands and the Chesapeake Bay Resource Protection Area, destroying wetland vegetation and altering the contour of the wetlands. No evidence was produced that a permit was either applied for or issued for the three-acre land and wetland disturbance.

The owner, Benjamin Mathai of Manassas, Virginia, claimed he didn't know what his unidentified contractor was doing. The Wetlands Board ordered removal of the debris piles and that a restoration plan be implemented and funded by the owner. The plan includes a five-year monitoring plan with reports and photographs; the restoration plan is included as a deed requirement if the property changes hands.

Then Northampton County filed charges against Mathai. He was found guilty of unpermitted encroachment into Northampton County's Resource Protection Area, use of wetlands without a permit and unpermitted land disturbing activity. He was sentenced to 24 months in jail (all but 40 days suspended), fined \$1,500 (in addition to \$10,000 in civil fines) and will fund the \$150,000 monitored restoration.

Mathai is expected to appeal the decision on September 11 in Northampton County court.



Accomack Board Drops Work on Solar Overlay Zoning

Since last November, the Accomack County Planning Commission has been working on a major adjustment to the zoning ordinance with regard to utility-scale solar and wind projects. In January, the Board of Supervisors approved removal of these projects from agricultural zoning, and the Planning Commission has been developing language for an overlay zone for solar projects.

At their meeting on June 21, the Board unanimously voted to ask the Planning Commission to stop work on the ordinance. Although the overlay zone had its issues, Accomack is now left with no allowance for utility-scale solar or wind projects in the county, except in areas zoned general business or industrial (with a total of 5,070 acres, or 1.7% of the total acreage in the county). Any future projects in agricultural areas will have to apply for a rezoning first and, as stated in the memo from Rich Morrison, Director of Planning and Zoning, this would be "difficult as the rezoning requests will likely not be in accord with the County's Comprehensive Plan."



This is what Accomack County highway poultry house setbacks look like — note that ventilation equipment faces a well-traveled state highway. Staff photo

2017 Birding and Wildlife Festival Dates Announced

Dave Wilson, director of the 2017 Eastern Shore of Virginia Birding Festival has announced that the event will take place Oct. 5-8. He said that new birding trips are being added this year in addition to revamped evening events and tally rallies. The event has a Facebook page where they plan to post weekly updates; the website is due to be live shortly. This popular festival is attended by hundreds each year and is one of the largest ecotourism events on the Shore.



Water Pollution, Cont'd from p. 2

The schedule for this ambitious project includes an initial 12-month period of data gathering and preparation of educational materials and meetings with stakeholders (an interactive process to foster engagement). A final 6-month period will include public meetings, outreach to farmers, land use planners and citizens' groups, and then examining any emerging issues not already addressed.

As of this writing, an interactive process has not yet commenced, but reports from VIMS ESL indicate that a "literature review" has been undertaken. The mass balance efforts have been delayed due to delays in the Delaware mass balance effort. No further information is available.

Editorial Comment: *The Accomack Board of Supervisors has indicated that they are waiting for more data from the "Poultry Project" before addressing zoning changes to CAFO requirements. The Project was funded by a community foundation with the expectation that information would be gathered and delivered to the Board in a timely manner. But the Project timeline has not been implemented, stakeholders have not been assembled, and the mass balance study from the Delaware working group, on which the Project would depend for data, appears to have stalled. Many of the issues noted in the Project's grant application have great significance for the Shore's health and well-being. CBES and ShoreLine support this effort and are concerned by any delay. The water quality issues are better handled at the state level. The State Department of Environmental Quality (DEQ) regulates CAFOs, including the management of manure waste disposal. The Department will be reviewing the General Permit for CAFOs to make sure their regulations are working, and any new data and technical information, including results from the "Poultry Project," will inform the review.*



General Assembly, Cont'd from p. 5

- Cash flow issues
- Inability to pay expenses
- Revenue shortfalls
- Deficit spending
- Structurally imbalanced budgets
- Billing and revenue collection inadequacies and discrepancies
- Debt overload, and/or
- Lack of trained and qualified staff to process administrative and financial transactions.

If localities are determined to be experiencing fiscal stress based on indicators identified by the workgroup, the Auditor of Public Accounts (APA) will notify the locality and request additional information to ascertain if there is cause for concern. If the APA determines that a locality needs state assistance, oversight, or intervention, the Auditor will outline specific actions that need to be addressed by state intervention, and can authorize the use of \$500,000 if unexpended funds are available.

In addition, a Senate study will review:

- The taxing authorities of local governments, including the disparity between city and county tax authority
- Local responsibilities for service delivery of state-mandated or high priority programs
- Causes of fiscal stress among local governments
- The current state tax system, including the future of the car tax
- Potential financial incentives and other governmental reforms to encourage increased regional cooperation and consolidation of services

ShoreLine will continue to follow this issue.



The CBES/TNC Clean the Bay Day Team in Oyster on June 3 collected 1,320 lbs of trash in about 3 hours! (L-R) Bill Mastyl, Jim Baugh, Jene Radcliffe-Shipman, Nancy Vest, Butch Vest, Judy Illmensee, Nancy Kinzinger, Mark Chilson, Jim Granger, Lisa Householder, Dan Coffey, Macy Coffey, Sandra Fleming, Rachel Sengenberger, Margaret Van Clief (TNC outreach & education coordinator), Sue Mastyl, Martina Coker, Melanie Parker, Charlene Dix, Halsey Klingel, Fatina Peart, Olivia Peart. (Not pictured: Graham & Fiona Driscoll and Amy, Kai & Lucy Watkins). TNC photo

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**HAVE YOU
RENEWED YET?**

SHORELINE

Community Calendar - July 2017

Note: Please verify times and places prior to attending meetings.

CBES and Other Activities		Accomack County		Northampton County	
July 5	VIMS Public Seminar 7:30 PM, Wachapreague	July 12	Planning Commission 7 PM, Sup. Chambers	TBA	Board of Zoning Appeals 1 PM, Conference Room
July 13	Shorekeeper Meeting* 3 PM, Barrier Islands Center	July 18	School Board 7 PM, Sup. Chambers	TBA	Planning Commission (PC) 7 PM, Sup. Chambers
July	ES Groundwater Committee No meeting this month	July 19	Board of Supervisors 5 PM, Sup. Chambers	July 11	Board of Supervisors 7 PM, Sup. Chambers
July	CBES Board Meeting No meeting this month	July 19	Board of Zoning Appeals 10 AM, Sup. Chambers	July 18	Wetlands Board TBA, Conference Room
		July 20	Wetlands Board 10 AM, Sup. Chambers	July 19	PC Work Session 7 PM, Sup. Chambers
				July 24	BOS Work Session 7 PM, Sup. Chambers
				July 25	School Board 5:30 PM, Sup. Chambers

* Alternating between the ES Chamber of Commerce and the Barrier Islands Center