

IN THE CIRCUIT COURT FOR TALBOT COUNTY

PETITION OF:

CHESAPEAKE BAY FOUNDATION, INC.
6 Herndon Avenue
Annapolis, MD 21403

FAYE H. NAVE
4567 Wrights Mill Road
Trappe, MD 21673

JOHN W. LAMBERT II AND
DORRI GOWE-LAMBERT
4400 Wrights Mill Road
Trappe, MD 21673

STEVEN AND LYNNE HARRIS
4720 Wrights Mill Road
Trappe, MD 21673

FOR JUDICIAL REVIEW OF THE DECISION OF
Maryland Department of the Environment
Water and Science Administration
1800 Washington Boulevard
Baltimore, MD 21234

IN THE CASE OF
Ground Water Discharge Permit
The Trappe East Wastewater Facility
Permit No.: 19-DP-3460, MD3460U04

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* CIVIL ACTION
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* No. _____
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PETITION FOR JUDICIAL REVIEW

Pursuant to Maryland Rule 7-202 and Md. Code Ann., ENVIR. §§ 1-601 and
1-605, Petitioners Chesapeake Bay Foundation, Inc., Faye H. Nave, John W.

Lambert II and Dorri Gowe-Lambert, and Steven and Lynne Harris (collectively, “Petitioners”), by and through their undersigned attorney, file this Petition for Judicial Review requesting review of the decision of the Maryland Department of the Environment Water and Science Administration (the “Department”) to issue Ground Water Discharge Permit 19-DP-3460, MD3460U04 (the “Permit”). The Permit authorizes the discharge of treated wastewater via spray irrigation from the Trappe East Wastewater Facility owned or operated by the Town of Trappe and Trappe East Holding Business Trust and located east of Backtown Road and north of Piney Hill Road in Trappe, Talbot County, Maryland (the “Facility”).

In support of this Petition for Judicial Review, Petitioners state the following:

1. The Permit states that the Facility will be designed for an ultimate wastewater flow of an average of 540,000 gallons per day. The Facility is permitted to discharge treated wastewater via spray irrigation onto areas designated on Maps “A” and “B” of the Permit. These areas are adjacent to Miles Creek, which is a tributary of the Choptank River. The eastern “spray setback” or “spray field buffer,” for what is described in the Permit as the “primary spray field,” incorporates portions of Miles Creek. The Permit also allows treated wastewater to be stored in a

lagoon when it cannot be land applied through the spray irrigation system.

2. The Department conducted a public hearing on the draft version of the Permit on November 19, 2019.
3. The Department received comments on the draft version of the Permit through January 20, 2020.
4. On December 25, 2020 and January 1, 2021, the Department published its Notice of Final Determination on the Permit in the Star Democrat newspaper. The Department set a deadline of February 1, 2021 to request judicial review of its final determination on the Permit.
5. Petitioners aver that the Department did not comply with Maryland law in rendering its decision to issue the Permit.
6. Petitioners further aver that the Permit itself does not conform with Maryland law and will result in harm to their various interests.
7. Petitioners have standing to seek judicial review of this decision because they participated in the public participation process by submitting written or oral comments on the draft version of the Permit and meet the threshold standing requirements under federal law. Md. Code Ann., ENVIR. § 1-601(c).

8. The Chesapeake Bay Foundation, Inc. (“CBF”) is a nonprofit corporation organized under the laws of the State of Maryland and located at 6 Herndon Avenue, Annapolis, Maryland 21403. It is the largest conservation organization dedicated solely to protecting the Chesapeake Bay and its tributaries throughout Maryland, including Talbot County.
9. On behalf of CBF’s approximately 95,360 Maryland members, including approximately 1,542 in Talbot County, CBF is vitally interested in protecting water quality in Talbot County through education, restoration, and advocacy. To this end, CBF submitted comments on the draft version of the Permit to the Department on behalf of the organization and its members.
10. CBF avers that the organization and its members will be injured by the Department’s decision to issue the Permit. For example, CBF maintains oyster restoration sites in and at the mouth of the Choptank River which may be impacted by the operation of the Facility. CBF members also use and enjoy the Choptank River and its tributaries for recreational and aesthetic purposes.
11. This Court is capable of redressing CBF and its members’ injuries by granting the relief sought by Petitioners.

12. Faye H. Nave resides at 4567 Wrights Mill Road, Trappe, Maryland 21673.
13. Mrs. Nave is a member of the Chesapeake Bay Foundation.
14. Mrs. Nave's property is approximately 2,000 feet east of the land where the spray irrigation of treated wastewater effluent from the Facility will occur.
15. Mrs. Nave avers that the permitted facility will adversely affect the use and enjoyment of her property. She and her husband restored the historic residence on the property which was originally constructed in 1690.
16. Mrs. Nave further avers that her property's value will be diminished by its proximity to the permitted facility.
17. Mrs. Nave also avers that her recreational and aesthetic interests will be adversely impacted by the operation of the spray irrigation system. She enjoys watching birds and wildlife on her property, and it includes woodlands which are habitat for the Delmarva Fox Squirrel. Mrs. Nave's averment is based at least in part on her prior experience with such a system formerly being operated on a nearby dairy farm.
18. Mrs. Nave participated in the public participation process by attending the public hearing on the permit on November 19, 2019.

19. This Court is capable of redressing Ms. Nave's injuries by granting the relief sought by Petitioners.

20. John W. Lambert and Dorri Gowe-Lambert ("Mr. and Mrs. Lambert" or the "Lamberts") reside 4440 Wrights Mill Road, Trappe, Maryland 21673.

21. Mr. and Mrs. Lambert are members of the Chesapeake Bay Foundation.

22. The Lamberts' residence is less than 2,000 feet due east of the spray fields as designated in the Permit, where the spray irrigation of treated wastewater from the Facility will occur.

23. The Lamberts aver that the operation of the Facility will impact the value, use, and enjoyment of their property. Their drinking water is provided by a well on their property, and they are concerned about the potential for elevated nitrates and sanitizing chemicals in the groundwater resulting from the operation of the Facility.

24. Mr. and Mrs. Lambert aver that their quality of life will be impacted by the operation of the facility. They fear that their family's health will be injured by exposure to aerosolized bacteria which can be carried by drift from the spray irrigation system to their property, as well as by mosquito borne diseases through the use of the lagoon to retain effluent when it cannot be sprayed.

25. The Lamberts participated in the public participation process by offering comments at the November 19, 2019 public hearing on the draft version of the Permit. They also submitted written comments to the Department.
26. This Court is capable of redressing Mr. and Mrs. Lambert's injuries by granting the relief sought by Petitioners.
27. Stephen and Lynne Harris live at 4720 Wrights Mill Road, Trappe, MD 21673. They own and operate Wrights Mill Farm where they raise Red Angus cattle.
28. Mr. and Mrs. Harris are members of the Chesapeake Bay Foundation.
29. Their property abuts the land where the spray irrigation of treated effluent from the Facility will occur. The Harris's property includes the mill pond on Miles Creek and extends to the high-water mark on the western bank of that tributary to the Choptank River.
30. The permitted activity directly impacts the Harris's property due to the proximity of the spray fields. The Harrises aver that operation of the permitted facility will impact their use and enjoyment of their property.
31. Mr. and Mrs. Harris participated in the public participation process by offering comments at the November 19, 2019 public hearing on the permit. They also submitted written comments to the Department.

32. This Court is capable of redressing the Harris's injuries by granting the relief sought by Petitioners.

WHEREFORE, Petitioners respectfully ask this Court to grant judicial review in this case, reverse the decision of the Maryland Department of the Environment, and for all other just and proper relief.

Dated: February 1, 2021

Respectfully submitted,

/s/ Paul W. Smail
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