

COMMUNITY & ENVIRONMENTAL DEFENSE SERVICES

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August 9, 2008

Honorable Gerald W. Clark
Honorable Linda L. Kelley
Honorable Wilson H. Parran
Honorable Susan Shaw
Honorable Barbara A. Stinnett
Board of County Commissioners
175 Main Street
Prince Frederick, Maryland 20678

Dear Commissioners Clark, Kelly, Parran, Shaw, and Stinnett:

I would like to thank you for responding so quickly to my August 1st letter regarding the proposal to place sewage irrigation fields within 30 feet of backyards in the Apple Greene community.

In your August 5th letter it was stated:

The responsibility for requirements of wastewater treatment systems used in Calvert County rests with the Maryland Department of the Environment (MDE), not with local government.

With all due respect, I beg to differ. While MDE has authority over certain aspects of wastewater treatment systems, this authority does not preempt local regulation of these systems. This is especially true when it comes to ensuring "*harmonious development*" and other facets of land use and zoning traditionally under the purview of local government. In fact, the Board of County Commissioners has already assumed "*responsibility for requirements of wastewater treatment systems used in Calvert County.*"

The Zoning Ordinance dictates where a wastewater treatment system may be located in Calvert County. The Zoning Ordinance also specifies property line setbacks of up to 500 feet for facilities heavily regulated by MDE. So it is unclear to me why the Board of County Commissioners believes it lacks authority to establish minimum setbacks between wastewater treatment systems and residential property lines.

In the August 5th letter it was also stated:

In the past, we have been advised by State and federal experts that land application systems are best for the environment, in that wastewater is pre-treated and applied to the land, rather than being discharged into streams, rivers, and the Chesapeake Bay.

I have been an advocate of land application systems since they were first introduced into Maryland in the 1970s. I remain an advocate to this day. I agree that these systems have the "potential" to greatly reduce impacts to the aquatic environment. But these benefits are only achieved when systems, like drip-irrigation, are operating as designed and in full compliance with State discharge permit requirements, which is not the case.

The only two existing drip-irrigation facilities in Maryland are in Calvert County at Calvert Gateway Town Center and at Marley Run. In 2007, you and Commissioners Clark, Kelly, Shaw, and Stinnett signed a Complaint & Consent Order issued by MDE against the Marley Run facility. Given this I assume you are aware of the serious problems which have plagued this plant since it opened in 2001. In my August 1st letter I provided documentation of similar problems at the Calvert Gateway drip-irrigation plant.

The most disturbing fact is that I found wastewater had saturated the ground surface the first time I visited drip-irrigation fields at both facilities. Had I visited both drip-irrigation fields, say, 50 times and only found sewage-saturated soils once then my concern might not be so high. But this was not the case.

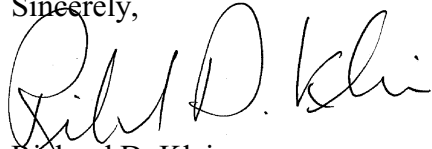
It is a clear violation of the State discharge permit, as well as public health and aquatic resource protection principles, to allow the soil surface to become saturated with wastewater. The violation occurred at both drip-irrigation facilities. The problems at both facilities were confirmed by the MDE inspector who investigated the complaints I filed. Again, I found this serious problem the *first* time I visited both drip-irrigation fields. And it was clear that the saturated conditions had persisted at Marley Run for a period of months, possibly longer. This says to me that there is a high-probability that the drip-irrigation fields proposed next to Apple Greene are likely to become saturated with sewage as well.

The wastewater is not disinfected before release to the drip-irrigation fields. Therefore disease-causing organisms were present in the saturated soil surface. The same type of drip-irrigation fields are proposed for installation within 30-feet of the backyards where Apple Greene children play. As you can imagine, their parents are not happy about this prospect. Hence their request that I write to you again to implore that the Board of County Commissioners meet with us so we can discuss this matter in detail. The goal of Apple Greene Civic Association is **NOT** to stop the Shoppes@Apple Greene project. They only seek to resolve concerns about the proposed wastewater treatment system.

In your letter you offered to contact MDE Secretary Wilson about the need for greater setbacks. We have contacted MDE staff about this already, without success. Your encouragement can only increase the likelihood that Secretary Wilson will see the injustice in placing sewage irrigation fields so close to homes. However, this should not be viewed as a substitute for amending Calvert County law to provide adequate separation distances. We believe that the primary responsibility for ensuring compatibility between existing and proposed development rests with the County, not the State.

Finally, your August 5th letter advised us of the portion of the Zoning Ordinance explaining how we can request amendments. It is unfair to place the burden upon taxpayers to draft legislation to provide a reasonable setback between wastewater treatment systems with a history of failure and the lawns where their children play. Again, I ask that you meet with several Association representatives and me to discuss this matter further. We would then ask that you direct staff and the County Attorney to research legislative options to protect Apple Greene residents and other Calvert County citizens.

Sincerely,



Richard D. Klein

cc: Ms. Lisa Yankanich, Apple Greene Civic Association
Mr. Gregory A. Bowen, Department of Planning & Zoning
Mr. Paul McFaden, Calvert County Office of Environmental Health
Mr. J. Carroll Holzer, Holzer & Lee
Mr. Edward B. Howlin, Jr.