

Poultry Waste Wasting Fish?

More than one year after legal proceedings were started, West Virginia Rivers Coalition (WVRC) received a copy of the West Virginia Department of Environmental Protection's (DEP's) consent decree with Pilgrim's Pride Corporation (Pilgrim's) over repeated polluting of the Potomac River. On November 1, 2002, WVRC filed suit against Pilgrim's because of continued pollution permit violations. This forced the DEP Environmental Enforcement's "do nothing" hand, and a month later the permit enforcement agency for West Virginia filed a similar suit. The state suit took precedence and in November 2003 WVRC was given an opportunity to comment on DEP's settlement with Pilgrim's.

The agreement requires Pilgrim's to improve their wastewater treatment and should ensure compliance with Pilgrim's National Pollutant Discharge Elimination System (NPDES) permit and remedy the pollution violations addressed in the original complaint. Nonetheless, WVRC feels the settlement agreement inadequately offsets past pollution burdens to the South Fork of the South Branch of the Potomac and the surrounding community. A civil penalty of \$171,000 is imposed by the consent decree. Pilgrim's may provide \$87,000 of that penalty in the form of a Supplemental Environmental Project (SEP), requiring an \$84,000 cash penalty.

The penalty is chicken feed to a multi-million dollar out-of-state corporation. Insufficient penalties are common from DEP. In February 2004, the agency was reprimanded by Supreme Court Justice Warren McGraw for inadequately using fines against a coal company that had violated water quality laws. "You ought to be imposing your penalties in a way that takes it out on Wall Street, not Main Street." McGraw said.

Additionally, the consent decree does nothing to assure that the SEP will serve the South Branch and its community. Often times SEP's function more as public relations tools for the company than as appropriate remedy for the punishment. WVRC has asked that downstream citizens be involved in the SEP planning process and that such a provision be put in language within the consent decree.

DEP believes that the specific violations addressed by the consent decree have "had a minimal, if any, impact on the South Fork of the South Branch of the Potomac River" and ascertains "no evidence that the violations killed or adversely affected aquatic life." (2/26/04, DEP) Yet, multi-agency studies into a significant fish kill during May 2002 are beginning to point to poultry processing and other agricultural sources as potential causes.

Since the 2002 fish kill, WVRC has encouraged West Virginia's Division of Natural Resources (DNR) to coordinate its fish kill investigations with other agencies, to compile methodologies to better investigate fish kill causes, and to share information about the health of the South Branch of the Potomac with citizens. More recent investigations by a multi-agency team have shown no kills but significant health problems with fish in the South Branch of the Potomac.

In July 2003, a study by DNR and the U.S. Geological Survey's National Fish Health Laboratory (NFHRL) in Kearneysville, WV was initiated. Smallmouth bass were collected from seven sites along the South Branch of the Potomac, including Indian Rock and Blue Beach Bridge above Romney, Wapacoma Campground below Romney, Old Field Bridge above Moorefield, Fisher Bridge below Moorefield, Petersburg Gap above Petersburg, and Petersburg below Petersburg. Between four and 55 smallmouth bass were collected at each site.

Conclusions from the study are disturbing, as they have detected intersex among a significant percentage of smallmouth bass sampled. Intersex is a condition where female fish eggs occur in male testes. The study found that "all sites but one in the South Branch had some incidence of skin lesions and some incidence of intersex." Fish "collected at the sites in the North and Lost rivers had no external skin lesions and no intersex observed." *"Studies on Fish Health Issues in the South Branch of the Potomac River"* (undated report).

Intersex in fish has been linked to exposures of endocrine disrupting chemicals. Sources of these chemicals include poultry and cattle manure, municipal sewage treatment plants, and pesticides and herbicides. Studies indicate significant run-off of these chemicals from fields applied with poultry litter. Pilgrims' Pride applies sludge of poultry waste to agricultural fields along the South Branch of the Potomac. Recently, landowners have complained to DEP and WVRC about apparent illegal practices, such as applying waste to frozen fields within floodplains, on the fields accepting Pilgrim's waste. A permit application is pending for the poultry waste sludge application.

Despite the sampling results, DEP's February 2004 press release regarding the fish sampling states "monitoring results determined that, overall, fish populations were in good condition in all the streams sampled. Fish growth was also considered good." (2/27/04 DEP News) So according to DEP, fish found with skin lesions and intersex condition are "in good condition"? This points to the fact that DEP should not make calls about fish health based merely on DEP studies. DEP's statement about Pilgrim's Pride's repeated and consistent polluting, having "a minimal, if any, impact on the South Fork of the South Branch of the Potomac River" was based upon "data obtained by WVDEP's Watershed Assessment Program". A more realistic assessment would have included multi-agency and watershed based data.

In fact, the fish sampling study points to a need for comprehensive assessments: "These findings certainly suggest further research should be directed toward understanding the cause(s) of the skin lesions and the high incidence of intersex...In addition, water and sediment samples should be collected bimonthly for contaminant analyses, quantification of bacteria and assessment of estrogenic compounds." A multi-agency group including, DEP, DNR, U.S. Environmental Protection Agency, USGS and WV's Department of Agriculture will cooperate in further study.

DEP needs to consider cumulative impacts to the overall health of a waterway when issuing, renewing or enforcing any pollution permit. There needs to be increased coordination among the different agencies addressing the health of the South Branch and area residents. For residents, visitors and tourists, the South Branch needs greater attention from the “protectors” of our environment. Greater scrutiny is needed on new and renewed permit applications in the basin. Real penalties that actually deter polluting our streams with poultry manure, municipal waste, industrial discharges or other pollutants should be levied. Finally, DEP’s Environmental Enforcement division needs to become proactive and not wait until Rivers Coalition or some other concerned organization files suit before they become involved.

WVRC is concerned about pollution problems in the Potomac drainage and our agencies’ responses to them. The fish kill occurred nearly two years ago and agencies have yet to formulate specific investigation procedures to find the cause of this or future similar kills. A persistent polluter is given an inappropriate and inadequate penalty. In common sport fish, smallmouth bass, male sex organs are found with female eggs. The evidence points to agricultural and/or municipal sources, yet DEP says the water is good and the fish are fine. West Virginia agencies need to open their eyes to see an entire watershed and open their ears to listen to each other.