

May 2, 2006

Mr. David C Whitehurst
Virginia Department of Environmental Quality
PO Box 10009
Richmond, VA 23240

**RE: Hazel River Tier III or Outstanding National Resource Waters
Designation Proposal**

Dear Mr. Whitehurst:

The Chairman of the Rappahannock County Board of Supervisors, Mr. Robert P. Anderson, County Attorney Peter H. Luke and I met on April 25 with Department of Environmental Quality staff members Mr. Alan E. Pollock and Mr. Thomas A. Faha. The purpose of the meeting was to discuss the concerns of Rappahannock County officials with the proposed Tier III designation of the Hazel River, now pending before the State Water Control Board. This meeting was requested by the SWCB at their meeting of March 15, 2006.

The Board of Supervisors has previously conducted a public hearing (on December 12, 2005), on this matter, and has by letter of December 13, 2005, indicated their opposition to the proposal.

The County characterized its concerns as, broadly put, being two-fold. First, centering on current limitations imposed by Tier III designation, the Board's concern focuses on the ability of homeowners to provide safe sewage disposal systems for existing homes. There are a number of existing homes on the Hazel River which either lack sewage disposal systems of any sort, or which have inadequate systems. Further, existing systems which now meet all State requirements may fail in the future or not be able to meet new state regulations. The County feels that these property-owners' rights must be respected with a "grandfather" clause that would allow them to apply for a point source discharge system should same become necessary.

Second, as to prospective limitations, the County has grave concerns as to the possibility of further changes to the regulations creating additional burdens on property-owners and local decision-makers. The current state of regulations essentially creates the situation whereby we are asked to agree in perpetuity to a bargain the terms of which the other parties (DEQ, and/or EPA) can change at will. Such changes could impede the ability of future Boards to deal with problems we cannot now imagine, and may not be supported by a majority of the residents of Rappahannock County. While we appreciate that any such changes must go through either or both of the rule-making processes set forth at the Federal and State levels, as a practical matter, our ability as a small local government to participate in such processes is extraordinarily constrained.

Mr. David C. Whitehurst

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If both the current and prospective concerns of the County could be addressed by having a grandfather provision for prospective point source discharges serving all currently existing homes, and provisions allowing the County to withdraw from Tier III status in the event of new, more restrictive provisions being adopted by the Federal or State governments, then the County would be willing to at least reconsider its opposition to the designation.

Mindful of our role as stewards of our environment, and anxious to be supportive of the broader goals of Tier III designations, the County supports Tier III designation of the Hazel River within the boundaries of the Shenandoah National Park, as we have likewise supported the designations of those portions of Piney River and the North Fork of the Thornton River within the Park.

We hope that this elaboration of our position is of use to the State Water Control Board in their deliberations, and we appreciate the opportunity to meet with Mr. Pollock and Mr. Faha.

Thank you for your consideration.

Sincerely,

John W. McCarthy
County Administrator

Cc: Board of Supervisors Members
Peter H. Luke, County Attorney
L. Diane Bruce
Frank Bossio, Culpeper County Administrator