

## A Stream of Objections

Piney Run divides Balto. Co. residents and Carroll County

By CHILDS WALKER

When Dorothy Rowland moved to her farm in northern Baltimore County 30 years ago, she could hop across the section of Piney Run that trickled through her property. Now, "I don't think a broad jumper could Ret across that thing," she said. The stream has cut steep banks as high as 6 feet. Algae coat many of the rocks in the stream bed. A procession of foamy bubbles never seems to stop. Piney Run has changed, Rowland and other Baltimore County residents say, from a clear, gentle stream to a murky, polluted torrent. They blame the changes on increased flow of treated water from the Hampstead Wastewater Treatment Plant across the Carroll County line. Population growth in and around Hampstead has forced the plant to pump more wastewater into Piney Run, Carroll County officials said. And, they add, wildlife and property values in Baltimore County have not been harmed as a result.

Members of the Piney Run Preservation Association, however, say flow from the plant has eroded their properties. The group of about 175 families has spent the past nine years battling Carroll County in and out of court. Members hope environmental law will help force the county to divert some of the wastewater away from the Piney Run. They hope to win compensation for damages through another suit, too.

In an unprecedented decision last year, a federal judge fined the county \$400,000 because, he said, effluent from the plant was heating the stream and making it uninhabitable for brown trout.

The county's appeal reached the 4th U.S. Circuit Court of Appeals in Richmond, Va., on April 5. Some believe that if the court up holds the fine, treatment plants across the country may have to begin cooling effluent to comply with the federal Clean Water Act, which sets pollution standards for the nation's waterways. That would cost localities and large companies millions of dollars, and the case has drawn national attention.

"We take all kinds of precautions, and we don't break any laws," said Carroll Commissioner Donald I. Dell. "The reality is we're not harming that stream." The Maryland Department of the Environment has stood by the permit it granted the plant to pump into the stream.

Companies and associations including Bethlehem Steel, General Electric, the Alliance of Automobile Manufacturers and the American Petroleum Institute have filed briefs on behalf of Carroll County.

The case started as a border dispute between growing Carroll County and property owners in the rural corner of Baltimore County. The difference between the two areas becomes obvious as rows of box homes around Hampstead give way to the plush fields of Upperco, where many people own 50-to 100-acre horse farms.

"I don't care if they grow; more power to them. But it shouldn't come at our detriment," said Mary Gaines, who owns a farm on Black Rock Road and leads the preservation association.

Gaines argues that if Carroll doesn't pay to prevent problems, it could face greater cleanup costs.

The association is battling Carroll County on several legal fronts. The federal fine would be a good start, members said, but they also want to recoup damages and block the plant's attempt to get a new operating permit that would allow it to pump more water into the stream.

The plant's permit, which is up for review In the next few months, doesn't prohibit it from pumping more than the current 500,000 gallons a day, but the permit's pollution restrictions are based on that figure and those restrictions would change if the volume in the permit changes. Carroll wants an increase to 900,000 gallons a day but without building a water cooling system, it can't pump at that rate and keep the stream under the required 68 degrees, said association attorney **G. Macy Nelson**.

Concerned landowners acknowledge that talk of effluent temperature bores them, but if the threat of federal fines stops Carroll County from messing up their properties and stream it, so be it, they said. Increased flow from the plant has carved properties in half, dragged trees and fencing into the stream, created more bubbles and foam and left the stream bed a mess of sediment and slimy rocks, association members complain.

Concerns about the treatment plant surfaced when it was built in the late 1960s. There is "ample evidence to suggest the probability that Piney-Western Run cannot assimilate the effluent from this plant," wrote Baltimore County health officer Donald J. Roop in a 1969 letter to the state, "This could result in adverse effects on the stream from public health, aesthetic and utilitarian aspects."

"It would be unwise and not in the public's interest" to build the plant on the Hampstead site, he concluded.

MDE issued a permit to the plant anyway, a decision **Nelson** called a mistake. He and his clients believe MDE has been more concerned with rationalizing and defending its permit than with the health of Piney Run.

"MDE has been passive at best," Gaines said.

A state Court of Special Appeals judge, criticizing MDE's role in the dispute, called the agency a "hollow shell"

The association's criticisms are "potshots against government," said MDE spokesman Richard McIntire. "How much can you say back?"

MDE inspectors studied the stream's brown trout population last summer.

"It is our opinion that the brown trout population in the Piney Run is self-sustaining and very healthy ... in spite of a record drought summer of 1999," wrote Charles R. Gougeon, regional fisheries manager for MDE. "We suspect that a consistent water discharge from the treatment plant may have been key to maintaining ample stream flow during the adverse drought conditions, thereby averting significant mortalities associated with low flow."

That study and other indicators show Carroll County is doing its job, said Linda Woolf, the county's attorney in the Piney Run cases. The plant's effluent only drives the stream's temperature above acceptable limits on some summer nights, she said, and MDE's report shows that trout can survive the effects. "In fact, when the county has been allowed to exercise its environmental expertise, it has accomplished just a tremendous improvement to the stream," Woolf said.

Dell dismissed the fight against the plant as "more emotion than realism" and called the association "a group of people who want to stop progress at any cost." Carroll County will wait out the battle, because it's done nothing wrong and because areas such as Hampstead have a right to grow, he said.

Members of the association have mixed views on how long they'll fight. Some say they don't have enough money to win a legal war of attrition with the county. Every few months, Gaines prints a batch of fliers seeking money to pay legal costs. Neighbors have been generous, she said, but the money may not come forever.

**Nelson**, on the other hand, believes the group will stick with its pattern of the past decade and fight until it wins what he considers an inevitable victory. "They have their heads in the sand," he said of Carroll County leaders. "If they try to outlast us, they'll lose."

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