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Suit targets manure management: Environmentalists want state to open records of chicken farmers' plans for waste

Tom Pelton. McClatchy - Tribune Business News. Washington: Feb 5, 2008.

Abstract (Summary)

"How does the public's knowledge of that business data improve water quality?" About 6,300 farms statewide, including corn and grain growers, are required to have nutrient management plans under a 1998 state law.

Full Text (649 words)

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Feb. 5--An environmental group sued the state yesterday for failing to allow public access to records showing how chicken farmers handle more than a billion pounds of manure a year.

The nonprofit Waterkeeper Alliance wants the Maryland Department of Agriculture to let the group review "nutrient management plans" that farms are required to have to curb agricultural runoff.

The 272 million chickens grown every year by the Eastern Shore's broiler industry produce more than a billion pounds of manure annually, waste that often is used as fertilizer and is one of the largest sources of pollution in the Chesapeake Bay. While all farmers are required to have the management plans, the Waterkeeper group is seeking access only to information about poultry operations.

"Maryland has manufactured an illegal curtain of state secrecy to protect corporate polluters," said Robert F. Kennedy Jr., chairman of the Waterkeeper Alliance. "It's time state legislators put the health of Maryland citizens and the Chesapeake Bay over the interests of Big Poultry corporate lobbyists."

State agriculture officials and farm organizations say the plans -- summaries of which are kept on file at the Department of Agriculture -- should be treated as confidential business records.

"Would you want the public to see your income tax papers?" state Agriculture Secretary Roger L. Richardson asked in an interview last fall. "The farmers are very conservative people, and they don't want to give out all this information."

Bill Satterfield, executive director of Delmarva Poultry Industry Inc., a trade group, said the plans are none of the public's business, according to a speech on the group's Web site.

"A handful of vocal critics of our industry believe farm families should be required to share with the public some of their business and operating plans. Why?" Satterfield asked. "How does the public's knowledge of that business data improve water quality?"

About 6,300 farms statewide, including corn and grain growers, are required to have nutrient management plans under a 1998 state law. It was passed in the wake of outbreaks of toxic *Pfiesteria* algae on the Pocomoke River that were linked to fish kills and memory loss in people.

The legislation specified that the state should keep summaries of the plans "in a manner that protects the identity of the person for whom the nutrient management plan was prepared." The Waterkeeper group in June asked Maryland for copies of the plans for the state's biggest poultry farms. The request was denied.

Jane F. Barrett, director of the University of Maryland Environmental Law Clinic, which filed the lawsuit in Anne Arundel Circuit Court on behalf of the Waterkeeper Alliance, said the state should at least release the plans with the names blacked out.

Or, Barrett said, the state should consider the secrecy provision to be nullified by an older and more sweeping law, the Maryland Public Information Act, which requires most information maintained by state agencies to be open to public scrutiny.

She said that clearing up the mystery of what happens to the 1.2 billion pounds of litter generated each year by the state's poultry industry is important because that is about the same amount of waste generated by the human populations of Baltimore, Washington and Annapolis combined.

"We have no idea whether that waste is being managed or controlled," Barrett said. "You can't even begin to find the remedy for the problem until we know how extensive the problem is. And hiding the information from citizens impedes the ability to come up with a viable solution."

In January, the Maryland Department of the Environment released proposed regulations that will require the largest 200 poultry farms in the state to get industrial-style water pollution control permits.

These permits -- which have more stringent manure management rules than the nutrient management plans and carry a heftier fine for violations -- are considered a matter of public record, according to MDE.

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