

**ENVIRONMENTAL CONCERNS RELATED TO THE  
CHESTNUT RIDGE COUNTRY CLUB PROPERTY**

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“In a complex ecosystem, you cannot do just one thing.”

Garrett Hardin

**Summary:** The Chestnut Ridge Country Club property (the “Property”) includes 232 acres in the watershed of the Jones Falls and the subwatershed of Dipping Pond Run (the “Run”). As much as fifty percent of the Property is riparian. Innumerable springs and seeps arise on the Property and feed into the many streams and at least five ponds. The Property contains three headwaters of Dipping Pond Run. The elevation of the Property slopes from 610' on the north near Broadway and Falls Road to 430' on the south in the woods and wetlands, a drop of 180' in a bit more than ½ mile. The combination of so much water rising from the earth on this Property and its steep gradient causes a tremendous volume of storm water to run off at great velocity in every significant rain event and to carry with it everything that is not firmly attached to Dipping Pond Run. These physical characteristics and the Club’s long history of poor land use practices have created constant friction between the Club and the owners of riparian land downstream. Any further development on the Property holds the prospect of exacerbating all these problems.

INTRODUCTION

- In January 2012 Armando Cignarale, a local developer, gained control of the 232 acre property (the “Property”) on which the Chestnut Ridge Country Club (CRCC) had operated an 18-hole golf course for many years.
- The Property is located in the watershed of the Jones Falls and the subwatershed of Dipping Pond Run (the “Run” or DPR).
- As much as fifty percent of the Property is riparian. Innumerable springs and seeps arise on the Property and feed into the streams and at least five ponds. It contains three headwaters of Dipping Pond Run and is environmentally sensitive.
- History shows that use of the Property has had a negative impact on its ecosystem and on adjacent ecosystems, primarily the DPR watershed.
- Any further construction on the Property is likely to exacerbate the negative effects on these sensitive ecosystems.
- The change in ownership requires that the Community revisit the environmental implications of any future use of the Property.

## BACKGROUND ON RELEVANT ENVIRONMENTAL ISSUES

- The Property comprises a watershed area for considerable downstream acreage. That acreage includes sensitive wetlands and properties that have riparian rights in Dipping Pond Run, which run against the Property and constrain its use. *See* in particular the maps at CRCC-MDEBA67S-022-000030 and 000047.<sup>1</sup>
- Two major tributaries to DPR rise on the Property. Multiple dams on those tributaries, some built by the Club, have created five ponds. A third major tributary to DPR crosses the west side of the Property. All three streams, the ponds and the numerous minor tributaries feed into DPR which is a tributary of the Jones Falls.<sup>2</sup>
- The Maryland Department of Natural Resources (DNR) has classified DPR as a natural trout stream (Class III). In correspondence dated 12 December 1990, DNR stated: “Dipping Pond Run is especially important because it is the only stream in the Jones Falls watershed that supports a natural reproducing brook trout population” (CRCC-MDE89-PO-1070-000003).<sup>3</sup>
- As early as 1989 DNR began to survey the stream, “following a sediment discharge to an unnamed tributary [to DPR that] originates on [Club] property;” and by 1992, DNR noted that “the stream [DPR] has received some heavy deposits of sediment, which appear to be moving through the study area from an upstream location” (CRCC-MDEBA67S022-000012&14). Such sedimentation can compromise the health of the trout population and the associated ecosystem.
- The State’s overriding concern with the Club’s use of its Property was to protect the trout population in Dipping Pond Run from thermal pollution from the Club’s ponds. “In general, ponds act as large solar heat collectors, and in Maryland on a hot summer’s day the surface water in a pond will typically be above 90° F. If water for a pond is discharged into a trout stream, the downstream water temperature can rise above the tolerance limits of trout.” Ray Dintaman, Jr., DNR, Project Review Program, Power Plant and Environmental Review Division, dated 20 December 1990 at CRCC-MDEBA67S022-000022.
- The highest elevation on the Property is –610' near the entrance from Falls Road; and its lowest is –430' where the eastern and middle tributaries leave the Property.<sup>4</sup> Broadway Road marks the end of the Jones Fall Watershed and beginning of the Beaver Dam Watershed. In the Jones Falls Watershed all water flows down hill from the Property. The topography and elevation of the CRCC and surrounding areas are thus quite different from the majority of Baltimore County and make the area particularly susceptible to extreme weather events that can stress the drainage capacity of the watershed.
- Because there is no access to public water on the Property or adjacent properties,<sup>5</sup> the Property depends on well water. A 1990 assessment by Whitman, Requardt and Associates that was submitted to the Maryland Water Resources Administration notes that “thirty-eight percent of the wells (in the area) yield less

than 2.0 gpm” and that the “drilling of [even 40 new] wells is viewed to be impractical and more importantly, not permissible because it is unlikely that a Water Appropriation Permit could be obtained due to the adverse effects to existing wells in that immediate area” (CRCC-MDE89- PO-1070-000024). Thus, any development requiring a large number of new wells would clearly be unsustainable. Moreover, wells also affect the baseline level of ground water in the entire CRCC ecosystem, which in turn influences the volume of water in the DPR tributaries and in the DPR itself.

- It is likely that any disruption of the Property will introduce new deposits of sediment into the various tributaries that serve DPR and will have a negative effect on all downstream ecosystems.
- Aesthetics and environmental quality are inseparable. Many people who live adjacent to the CRCC property and along DPR have chosen to do so because of the natural beauty of the ecosystem. Any diminution of environmental quality will diminish that natural beauty as well.

#### AN ABBREVIATED HISTORY OF LAND USE ON THE PROPERTY AND ITS EFFECTS

In 1989-1993 in an effort to gain access to more water for irrigation, the Club engaged in various construction and earthmoving activities in and around the ponds, streams and springs on the Property. Some of the Club’s activities were performed illegally without a permit, while others were permitted but the terms of their permits were violated. In the process the Club caused considerable damage to the streams and ponds on the Property and downstream on DPR.

Beginning in 1989 landowners along DPR responded by asserting their riparian rights in an attempt to stop the damage to the Run being caused by the improper land use actions at the CRCC. The residents were, unfortunately, only partially successful, and this environmentally sensitive ecosystem has been damaged repeatedly by the Club’s actions.

Thus, for 23 years residents of properties adjacent to, downstream from or otherwise affected by the CRCC ecosystem have repeatedly raised concerns about damage to DPR caused by activities at the Club and have sought to mitigate the effects. Of particular concern have been the multiple ponds on the property and attempts to rework some of them to provide irrigation for the golf course. The highest pond on the middle tributary sits at an elevation of -500' and drains -170' to the lower pond at -470' elevation, which in turn drains downhill over a distance of -780', picking up two minor tributaries along the way, to join the DPR at an elevation of -430'. The highest pond on the eastern tributary sits at an elevation of -490' and drains -261' to the lower pond at -450' elevation. The eastern trib then drains downhill -1320', gathering in a minor tributary on the way, to join the DPR at an elevation of -410'.

The earliest relevant survey of the DPR fish population occurred in the fall of 1989 and was conducted by the MD Water Resources Administration. In his letter of 6 November 1989, Charles R. Gougeon, Region III Fisheries Manager, stated: “During our observations, we noted that the sediment load (sand) appeared to increase as we move upstream from our lowest most sampling site.... The tributary draining the country Club that was impacted by the haul road did display an unusually high sediment load. Sediment in a trout stream can have a disastrous impact on reproductive success” (CRCC-MDEBA67S022-000216). The haul road to which Mr. Gougeon referred was constructed illegally by CRCC as part of its work on the Club’s irrigation ponds. *Testimony of Glen Shaffer*, Trial Transcript, 6 February 1995, at 157-58 (Case #93CV6726).

In the early 1990's, the Club undertook repair of pond # 3 to correct an embankment failure that likely occurred during Hurricane Agnes in 1972 (CRCC-MDE95-MT-0589-000169). That project, detailed in the “Construction History Report” dated June 1992 (CRCC-MDE95-MRS- 0589-000168-174), fails to mention the massive infusion of silt deposited into DPR during the 1992 pond repair, as documented in an inspection on 5 March 1992 by Bruce W Harrington of the MD DNR WRA Dam Safety Division and Glen Shaffer of Baltimore County Department of Environmental Protection and Resource Management [DEPRM].<sup>6</sup> The inspection describes “sediment problems, sediment trap not designed properly” and states that DEPRM “is requiring applicant to vacuum sediment out of stream for approx. 1000’ D/S [downstream]” (CRCC-MDE95-MRS-0589-000042.)

In October 1992, DNR conducted another survey of the fish population in DPR and found evidence of “significant sediment deposits.... Additionally, the substrate was found to be coated with a thin layer of silt,” (CRCC-MDEBA67S022-000013), a finding consistent with the description in the June 1992 *Construction History Report* of “residual soil of micaceous silt” found in pond #3 (CRCC-MDE95-MRS- 0589-000169). The DNR survey concluded that DPR “has received some heavy deposits of sediment, which appeared to be moving through the study area from an upstream location” and that “the very significant drop in brown trout recruitment in 1992 may be partly influenced by the presence of sediments (heavy and fine)” (CRCC-MDEBA67S022-000014). This event was associated with the earlier construction of the haul road and the related, unpermitted stockpiling of dirt.

In late January 1993 several residents along DPR noticed excessively muddy water in the stream and discovered that the source of the mud was the middle stream of the CRCC, “the same stream that has been clogged with sediment from the Club again and again for the past four years.” Additional exploration revealed the following: “The water in the feeder stream is very high and extremely muddy. The sediment-control fences here that were installed in 1989 are in a state of total disrepair. The large-gravel dam installed

across this stream then for sediment control has been completely breached, and muddy water rolls down to the Run” (CRCC-MDEBA67S022-000010).

In July 1993 property owners of riparian rights in DPR, whose land had been damaged by the Club’s actions, specifically, by sediment flowing into the streams from the Property, sued the Club seeking an injunction to prevent further harm. *Sternberger v. Chestnut Ridge County Club, Inc.*, Case #93CV6726 (Balt Co Cir Ct). On 15 June 1995, based on its findings of fact that the Club’s many improper activities had damaged its streams, the Run, and plaintiffs’ properties, the Circuit Court entered an injunction against the Club; and a copy of that Order is attached. Although the injunction was later reversed,<sup>7</sup> the findings of fact were not disturbed.

### **Conclusion**

We cite this partial history to make three central points:

- 1 The history of development and construction on the Property does not inspire confidence that subsequent development and construction can or will be conducted in a manner that protects the fragile ecosystem there or that respects the riparian rights of residents through whose properties the DPR flows. The sad reality is that both compliance and enforcement of environmental/development regulations have been lacking. For example, during the February 1995 trial in the *Sternberger* case, the Club stipulated that it had failed to secure permits to excavate pond # 4. *Trial Transcript*, 7 February 1995, at 8-9 (Case #93CV6726); and that the Club received five correction notices and one stop work order in 1992 in connection with sediment flowing from the Property into the streams. *Testimony of Arnold Wallenstein*, Club President, 6 February 1995, at 105-110 (Case #93CV6726). This failure is but one instance of many where the Club failed to obtain permits or, having secured such, violated their terms. Notwithstanding that the permanent injunction against the Club was reversed on appeal, the findings of fact by the Circuit Court were not disturbed; and those findings clearly demonstrate the Club’s history of causing massive sediment deposits to flow into DPR subsequent to both permitted and unpermitted work.
- 2 Nothing has changed in the topography of the Property or the headwaters of DPR. Nor, of course, has anything changed in the physiology or reproductive behavior of the fragile trout population that inhabits the DPR. That population is at the mercy of those who influence, purposely or inadvertently, the quality of the Run.
- 3 Garrett Hardin’s first law of ecology, stated above, virtually guarantees that any perturbation of the Property will affect the total ecosystem there, as well as the extended DPR ecosystem that depends upon the CRCC watershed.

## THE PRESENT

- The current zoning of the Property is RC5, but when they leave the Property, all three tributaries flow immediately onto land zoned RC4.
- Because the Property has been raised as Issue 2-031 in the 2012 Baltimore County Comprehensive Zoning Map process, its zoning may be changed this year.
- The Community expects that Mr. Cignarale has purchased the Property with the expectation that he will develop it, in a manner yet to be disclosed.

Clearly, the fate of the Property is directly and irrevocably coupled to the fate of the wetlands contained therein and to the fate of Dipping Pond Run. Of special concern is the fate of the ponds on the property, whose proper maintenance is required to prevent spillage of sediment and extreme fluctuations in water temperature that can kill the fish population downstream (CRCC-MDE89-PO-1070-000047). These realities require that any use of the Property proceed in a manner that will minimize the impact on this fragile extended ecosystem.<sup>8</sup>

Our goals reflect the legislative goals of Baltimore County as stated in Section 1A08.B R.C.7 (Resource Preservation) Zone of the Baltimore County Zoning Regulations:

1. To preserve and protect total ecosystem function, including riparian and aquatic ecosystems;
2. To protect forests, streams, wetlands and floodplains;
3. To protect the water quality of watercourses, the Chesapeake Bay and regional biodiversity;...
5. To provide a quality recreational experience to visitors;...
7. To maintain the unique character of a rural area by preserving its natural, ... recreational [and] scenic ... resources.
8. To provide for the environmentally sound use of land and forest resources, and to prevent forest fragmentation, especially in areas of extensive interior forest;
9. To implement state and federal mandates for the protection of natural resources and rural legacy;
10. To enhance rural character and environmental protection by locating buildings in harmony with site conditions;
11. To preserve the traditional character of rural communities by limiting the scale and intensity of development; ... and
13. To maintain the rural scale and character of area roads by limiting growth in the volume of traffic generated by local development.

As they have done since 1989, the residents of the area will continue to protect their riparian rights by monitoring decisions related to development on the Property.

## FOOTNOTES

1. During 1989-1992 the Club filed three permit applications with the State Department of Natural Resources (DNR) Water Resources Administration (WRA) to effect various improvements to their ponds, including a water appropriation and use permit (BA67S022) and two waterway construction permits (89-PO-1070). *See, e.g., Memorandum* to Kenneth Yetman, MD DNR WRA, Power Plant Research and Environmental Review Division From Gary T. Setzer, Director, MD DNR WRA, Water and Mineral Management Program, dated 17 November 1990 at CRCC-MDEBA67S022\000026. Most of the references in this paper are to the bates-stamped page numbers of the 3 MDE Permit Application files and to the Record in *Sternberger v. Chestnut Ridge County Club, Inc.*, Case #93CV6726 (Balt Co Cir Ct), an action brought by downstream owners of riparian rights seeking an injunction against the Club to prevent further harm and discussed further at 4-5.
2. *See, e.g.,* [http://myneighborhood.baltimorecountymd.gov/?current\\_extent=1394898.30348472|643182.926627142|1403587.18601774|648747.639752148&current\\_theme=Environmental&taxpin=0803024242](http://myneighborhood.baltimorecountymd.gov/?current_extent=1394898.30348472|643182.926627142|1403587.18601774|648747.639752148&current_theme=Environmental&taxpin=0803024242); and CRCC-MDE89-PO-1070-000006, 008 & 015.
3. *Accord Memoranda* of Ross A. Beschner, DNR Watershed Permits Division, Water Resource Administration, dated 21 February 1990 at CRCC-MDE89-PO-1070-000017; dated 23 March 1990 at CRCC-MDE89-PO-1070-000015; and dated 14 September 1989 at CRCC-MDE89-PO-1070-000046; of Elder A Ghigiarelli, DNR, Power Plant and Environmental Review Division, dated 12 July 1989 at CRCC-MDE89-PO-1070-000047; of Ray Dintaman, Jr., DNR, Project Review Program, Power Plant and Environmental Review Division, dated 20 December 1990 at CRCC-MDEBA67S022-000022; and dated 8 January 1992 at CRCC-MDE95-MT-0589-000057.
4. All elevations and distances stated herein have been drawn from <http://myneighborhood.baltimorecountymd.gov/>.
5. At its closest point of the Urban Rural Demarcation Line at the intersection of Jennifer and Padonia Roads is - 1.2 miles from the Property.
6. DEPRM is now known as the Department of Environmental Sustainability.
7. The Maryland Court of Special Appeals reversed the Circuit Court's entry of the injunction in an unreported Opinion dated 17 July 1996. *Chestnut Ridge Country Club v Burns*, Case #1264 (Sept Term 1995).
8. As stated in *Memoranda* of Ross A. Beschner, DNR WRA Watershed Permits Division, dated 21 February 1990, at CRCC-MDE89-PO-1070-000019: "To protect trout during spawning and early development, no work should be allowed in the stream from October 1 through April 30."