

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

THE OCCOQUN WATERSHED COALITION
Springfield, VA
c/o 9033 Brook Ford Rd.
Burke, VA 22015

Plaintiffs,

v.

Civil Action No. 1-12 CV 820

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, and
LISA P. JACKSON, ADMINISTRATOR
1200 Pennsylvania Ave., N.W.
Washington, DC 20460,

and

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY REGION III, and
JON M. CAPACASA, DIRECTOR
WATER PROTECTION DIVISION
1650 Arch St.
Philadelphia, PA 19103

Defendants.

DECLARATION OF JAMES R. KIRKPATRICK

I, James R. Kirkpatrick declare under penalty of perjury, in accordance with 28 U.S.C. § 1746 declare as follows:

1. I reside at 6609 Sandover Ct., Springfield, Virginia 22152 and make this Declaration based upon my experience as Chair of the Springfield District Council.
2. The Springfield District Council (SPD) is an unincorporated, nonpartisan, broad-based association. The Council works with many organizations as well as the Fairfax County Board of

Supervisors to address issues confronting the Springfield Magisterial District. This district includes, and the SPD represents the interests of approximately 42,537 homes with a population of approximately 121,127. The SPD membership consists of civic and homeowners associations, including, for example, the Old Mill Community (OMC) homeowners association.

3. The Old Mill Community homeowner association owns a parcel of land identified by Fairfax County Tax Map No. 0783 06 D1. A tributary of Pohick Creek, one of ten watersheds in the Springfield Magisterial District, runs across the Old Mill Community parcel. The OMC parcel, and private homes who are members of the OMC, have flooded because Fairfax County's stormwater management program has not has sufficient funds to maintain the stormwater facilities used to manage the flow of water into Pohick Creek. These maintenance funds come out of the same account that would be used to pay for compliance with the Accotink TMDL.

4. The Springfield District Council has a long history of concern over environmental issues within Fairfax County, including participation in the support efforts that resulted in establishment of Fairfax County Budget Fund 125, the stormwater fund used to manage the 30 Fairfax County watersheds.

5. In 2011, this fund contained \$8,343,937 for watershed maintenance and restoration and will grow to \$39,775,000 by 2013. To understand the actual magnitude of this amount, this equates to about \$1.3 million per watershed each year.

6. The most recent stormwater facility maintenance to prevent flooding of the OMC parcel and homes cost in excess of \$1 million. Because the OMC stormwater maintenance has a limited lifespan, it will need to redone at a similar cost within the next decade. Because Fairfax County has placed 100 percent compliance with its Clean Water Act MS4 permit as its highest priority (*see*, FY 213 Adopted Budget Plan (Vol. 2) at p. 259, available at

www.fairfaxcounty.gov/dmb/fy2013/adopted/volume2/125.pdf), followed by dam restoration and parking facility maintenance, if EPA TMDL becomes enforceable, it will empty Fund 125, eliminating the funds necessary to prevent inundation of OMC land and flooding of its members' homes.

Because the SPD is dedicated to preservation of water quality in the Occoquan Reservoir and in the watersheds draining into that drinking water source, because SPD members would be directly injured in fact by the concrete and particularized actual and imminent threat causally related to and fairly traceable to the federal unfunded mandate, because the threat to SPD members would be relieved by the remedy sought in this matter, the Springfield District Council wishes to join as a plaintiff to the above titled matter.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. This declaration was executed on the 23RD day of AUGUST, 2012.



JAMES R. KIRKPATRICK