

## **Comments Regarding I-495 HOT Lanes Proposed Consent Decree**

Comments may be made to:

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All comments must include the name, address, and telephone number of the person commenting.

### **Feel free to borrow from these comments submitted by Friends of Accotink Creek:**

Friends of Accotink Creek has been documenting and reporting on sediment control failures at the 495 HOT construction site, resulting in pollution of the Accotink Creek watershed. These problems were first reported to DCR in Sept 2008, and have been ongoing ever since. This pollution has a serious impact on the local environment, affecting local aquatic ecosystems, and incurring significant costs to Fairfax County, particularly by depositing large amounts of sediment in Lake Accotink. The last dredging, completed in 2008, cost Fairfax County taxpayers about \$8 million.

Friends of Accotink Creek is concerned that the Proposed Consent Decree does not go far enough to protect the Accotink Creek watershed. While this settlement is an improvement on the status quo, and has the potential to reduce pollution from the construction site, we believe that more should be done.

We ask the Virginia Soil and Water Conservation Board to impose better regulation and oversight over this project, and penalties commensurate with the damage inflicted. Friends of Accotink Creek believes that it is important to set a serious precedent in this case, in order to prevent similar damage to the environment from future construction projects.

The terms of the proposed consent decree are already operative, and we have observed significant improvements at sites that had been problems for months. Fluor-Lane has shown that it is capable of designing and implementing adequate measures. However, over the last week Friends of Accotink Creek have documented numerous failures and pollution events, due to inadequate design and inadequate monitoring, at other sites. It is hard to have confidence in the proposed consent decree, when Fluor-Lane is apparently still failing to comply with its responsibilities to Virginia, Fairfax County, the Accotink Creek watershed, and the citizens thereof.

Here is documentation of recent failures, including a blow-out where thousands of gallons of sediment-laced water were pumped into the Accotink Creek watershed at a poorly designed and poorly monitored construction site (apparently, the pollution event was only noticed when Friends of Accotink Creek showed up) <http://www.youtube.com/user/FriendsofAccotink>

Let's hope Fluor-Lane is not building bridges to the same standard as their sediment controls!

### **OUR RECOMMENDATIONS:**

Increased financial penalty.

The proposed penalty of \$66,450 does not reflect the scope of failures and violations at this site. A significant financial penalty would send the message that failure to comply with regulations has serious consequences. These funds should be designated for restoration projects in the Accotink Creek watershed.

Independent Monitoring.

Fluor-Lane should set aside funds for an independent professional group with relevant experience to perform inspections, report violations, and recommend solutions at the site. It is impracticable for volunteers to effectively monitor this site, and Fluor-Lane is still not doing an adequate job. Independent monitoring would help to ensure that problems are recognized and resolved.

Clear financial penalties for future violations.

Given the seriousness of the problems documented at this site, and the history of noncompliance, there needs to be a more effective process for imposing penalties. Under the current Consent Decree, DCR would have to go to court in order to penalize future violations. Including stipulated penalties for violations would result in more effective enforcement.

Remediation.

Fluor-Lane should make a significant contribution to mitigate the negative impacts of their failures and violations, by supporting restoration projects within the watershed. The Accotink Creek Watershed Advisory Group is in the process of identifying projects to improve the watershed. Fluor-Lane should collaborate with Fairfax County to implement some of these projects.

Community Grant Program.

Fluor-Lane should expand and make permanent the existing HOT Lanes impacted community grant program, allocating to it a fixed percentage of toll revenue.

Sincerely yours,

*Philip Latasa*

Friends of Accotink Creek

[www.accotink.org](http://www.accotink.org)