



Heritage Complex
2662 Riva Road
Annapolis, MD 21401

Christopher J. Phipps, P.E.
Director, Department of Public Works

August 16, 2013

By Electronic and First Class Mail

Mr. Raymond Bahr
Maryland Department of the Environment
Sediment, Stormwater and Dam Safety Program
1800 Washington Blvd.
Baltimore, MD 21230

Re: Tentative Determination to Reissue Anne Arundel County's NPDES MS4 Permit

Dear Mr. Bahr:

Anne Arundel County has received and reviewed the final draft NPDES MS4 Permit referenced above. We believe this iteration of the draft permit is substantially improved over earlier versions and thank you and your staff for considering our previously expressed concerns and comments. Please accept this correspondence as the County's formal comments, for the record, on the above referenced Tentative Determination. Our specific comments are found below.

Watershed Restoration Plans

The Fact Sheet for the above referenced Tentative Determination indicates that any entities (Federal, State, municipal, industrial properties) that must obtain separate NPDES general stormwater permit coverage from MDE are subject to their own watershed restoration requirements (see page 3 of the Fact Sheet). For purposes of determining applicable watershed restoration requirements as well as TMDL loads, these areas are to be subtracted from the County's regulated permit area and any impervious acres associated with these permits should not be included in the County's assessment of impervious acres for purposes of identifying the twenty percent requirement for restoration. From discussions with MDE staff, the County understands this to apply to entities with Maryland General Permit 02-SW coverage (and its' imminent reissuance as Maryland General Permit 12-SW). We further understand that this does not apply to those entities covered under Maryland General Permit 10-MA (General Permit for Discharges from Marinas). A correlative discussion of this exclusion is not addressed in the actual Draft Permit (Part IV.E.2.a). We suggest this information be incorporated into the actual permit language.

Additionally, and with respect to Part IV.E.2.a, the language in the second paragraph of this section may imply the use of ESD as the preferred methodology for achieving restoration efforts for twenty percent of the County's impervious surface area. The County takes exception to prescriptive language implying a sole or preferred means of achieving this restoration requirement. While the County continues to utilize WQ_v criteria as a basis of restoration design, our preferred methodologies for achieving the overall impervious surface area restoration requirement are predicated on implementation of our Chesapeake Bay

Phase II Watershed Implementation Plan (WIP) as submitted to MDE Science Services Administration in July 2012. The core strategy of the County's WIP is to achieve stormwater WLA through implementation of stream restoration, storm drain outfall and ephemeral channel stabilization, and stormwater pond retrofits. That core strategy will be augmented by a secondary strategy that includes, among other methods, ESD type retrofits of existing developed areas. In summary, for the County to comply with the requirements of Part VI. A. of this permit (Special Programmatic Conditions – Chesapeake Bay Restoration by 2025), we respectfully request latitude to implement the WIP strategies to meet restoration requirements set forth in Part IV.E.2.a..

Watershed Restoration Assessment

A continuing concern of the County is the requirement found in Part IV.F.1.a.iii. that requires discrete samples of stormwater collected at the monitoring stations during the rising, peak, and falling limb of the storm hydrograph. The National Academy of Sciences (NAS) recommends continuous composite sampling replace discrete sampling. The research presented by the NAS argues that too few samples collected increases variability in the results, and encourages variability and error in sample collection. Instead, a flow-weighted composite sample representing the entire event should be collected and tested (National Academy of Sciences 2008). The County is therefore requesting modification of the permit language to allow a single composite sample to be collected at each stormwater monitoring site, in lieu of discrete sample collection, for each of the twelve storm events.

Attachment A

The County is aware that "Attachment A" to the permit is currently under revision, with a goal to develop a new "geodatabase" meant to improve reporting on NPDES MS4 permit compliance and as well as Chesapeake Bay TMDL achievements. Those revisions to "Attachment A" are not reflected in the current "Attachment A", nor mentioned in this Tentative Determination. Has MDE given thought to how it will guide the Phase I jurisdictions into and through the new reporting requirements, given that those requirements will have impacts on how local jurisdictions collect, manage, and report these data to the State? The County respectfully requests MDE to include language recognizing future changes to the "Attachment A" reporting requirements.

Thank you for your consideration of these comments on the reissuance of the County's NPDES MS4 Phase I Permit. Please contact me or Janis Markusic of my staff should you have any questions regarding this correspondence.

Sincerely,



Christopher J. Phipps, P.E.
Director

CP:JM:eg