

MDE Public Hearing

Tentative Determination to Issue an NPDES Stormwater Permit for Prince George's County

June 5, 2013, City of Laurel Municipal Building, at 10am

SPEAKER SIGN-IN

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MARYLAND DEPARTMENT OF THE ENVIRONMENT
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
MUNICIPAL SEPARATE STORM SEWER SYSTEM DISCHARGE PERMIT

PERMIT NUMBER 11-DP-3314 MD0068284

WEDNESDAY, JUNE 5, 2013 10:10 A.M.

8103 Sandy Spring Road
Council Chambers
Laurel, Maryland

PRESENT FROM DOE:

BRIAN CLEVENGER, Environmental Program Manager

RAY BAHR, Natural Resources Planner

JERRY MALDONADO, Prince George's County Department
of Environment

ANDREW TAGO,

DEB CAPPUCITTI, Regulatory Engineer, Program
Review Division

ALSO PRESENT:

ADAM ORTIZ
LARRY COFFMAN
DANA MINERVA
REBECCA HAMMER
LAURA CHAMBERLIN
CHRIS YODER
JENNIFER CHAVEZ
JIM FOSTER
ANDREW FELLOWS
VICKY HAGEMAN
ELAIN LUTZ
DIANE CAMERON
MARIAN DOMBROSKI
DAN SMITH
JOSHUA TULKIN
SARAH SCOTT
CAROL GREEN
TRACEY SKINNER

ALSO PRESENT CONTINUED:

GREG CARRITO
KATE PETERSEN
CARY COPPOCK
BARRETT GILMORE
LYNN ANGOTH
PAUL DESANTIS
BRIAN CLEVINGER
ANDREW TAGUE
MARY CONWAY
JEFF DEHAN
DEREK WINOGRAFF
MIKE WAGNER
JESSICA SEIPP
GWEN CLERKLEY
LARRY LIEBESMAN
HOWARD SALTZMAN
BRITTANI GARNES
LORI BARANOFF
JON HOOD
MARIN DOMBROCKI
MIKE BOLINDER

REPORTED BY: KATHLEEN A. COYLE, Notary Public

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P R O C E E D I N G S

MR. BAHR: Good morning and welcome. Today is Wednesday, June 5, 2013, and it's approximately seven minutes after 10 a.m. Today's public hearing is regarding Maryland Department of the Environment's, DE's, tentative determination to issue Prince George's County, a national pollutant discharge elimination, MPDES, municipal separate storm sewer system, MS4, permit. My name is Ray Bahr, and I work as a division chief in the sediment stormwater and dam safety program within MDE's water management administration.

With me today from MDE is Brian Clevenger, who is the program manager, and Deb Cappuccitti, who is a regulatory engineer within the program review division. She is our MS4 coordinator for Prince George's County. And I would just like to thank her and the officials, government officials from Prince George's County here today for helping to set up today's public hearing. Also up here with me is Andrew Tago, who works in our division as well.

In accordance with Maryland's Administrative

1 Procedures Act, a tentative determination to issue
2 Prince George's County an MS4 permit has been
3 advertised in a local journal, "The Gazette," on
4 April 18 and April 25, 2013. Also, MDE sent this out
5 to an interested party list for Prince George's County,
6 and it has been publicized on MDE's website along with
7 the fact sheet and the draft permit.

8 Anyone who signed up to speak today or signed
9 the attendance sheet will be added to our interested
10 parties list. And any permit decisions or actions you
11 will be notified of that. If you have not signed the
12 attendance sheet and want to be on our interested
13 parties list be sure you do before the end of today.

14 Okay. I have prepared some remarks that I
15 would like to read into the record. And after that I
16 would like to give anyone from Prince George's County
17 government an opportunity to comment. And if there are
18 any local elected officials here as well. After that
19 we'll work through the speaker's list in a
20 chronological order to give testimony.

21 Today's hearing is scheduled for two hours.

1 And we would like to provide everyone with an
2 opportunity to speak. So please keep your remarks
3 concise, and focused, and on the permit at hand. I
4 will begin.

5 The purpose of today's hearing is to accept
6 public comment on the MDE's tentative determination to
7 issue Prince George's County an MS4 permit. This
8 hearing is being held to honor a request submitted on
9 April 25, 2013, from Rebecca Hammer representing the
10 Natural Resources Defense Council. This hearing allows
11 MDE to meet its obligations under Maryland's
12 Administrative Procedures Act.

13 For background, Maryland has been delegated
14 authority by the United States Environmental Protection
15 Agency to administer the MPDES program in the State.
16 Final stormwater regulations were adopted by EPA in
17 November 1990 according to Section 402(p) of the Clean
18 Water Act. These regulations require in part that
19 owners of storm drain systems serving populations of
20 greater than 100,000 people apply for a phase one NPDES
21 municipal stormwater permit.

1 Based on 1990 census data, Prince George's
2 County was considered a phase one municipality due to
3 its population, which was over 700,000 at the time.
4 The county submitted a two-year, two-part application
5 and was issued an initial MS4 permit in November of
6 1993. The county's first permit laid the foundation
7 for a comprehensive approach to runoff control. This
8 was done by establishing the necessary legal authority,
9 mapping storm drain infrastructure, identifying sources
10 of pollution, monitoring storm events to characterize
11 urban runoff, and enhancing existing erosion sediment
12 control and stormwater management programs, and finally
13 establishing new programs for providing education and
14 eliminating illegal storm drain system discharges.

15 This permit was reissued in January 1999 and
16 again in October of 2004. For both of these reissued
17 permits, additional requirements were included for
18 assessing water quality across the county and for
19 restoring ten percent of the county's impervious area
20 that was not already managed to the maximum extent
21 practicable.

1 NPDES permits last for five years, and a re-
2 application is required to be submitted as part of the
3 county's fourth year annual report. Prince George's
4 County submitted its four year annual report on April
5 14, 2009. Since that time MDE has had numerous
6 meetings and had many conversations with individual
7 citizens, environmental advocates, the EPA, and other
8 local government officials that are affected by the MS4
9 permit program. The results of these meetings and
10 conversations is the draft permit that we take up
11 today.

12 Yet more significant conditions have been
13 added to this version of Prince George's County's
14 stormwater permit largely based upon EPA recently
15 approved total maximum daily loads, or TMDLs, for
16 impairments to local water bodies within the county,
17 trash in the Anacostia, and for nutrients and sediments
18 in Chesapeake Bay. The most significant permit
19 condition is the doubling of the impervious area
20 restoration requirement, from 10 percent to 20 percent,
21 that needs to occur with the five-year permit term.

1 These and all other remaining permit conditions have
2 been developed for abating the discharge of pollutants
3 from Prince George's County storm drain system and
4 working toward meeting the State's receiving water
5 quality criteria.

6 Well, with that I would like to ask if
7 anybody from Prince George's County would like to make
8 a statement for the record? And please, for our
9 stenographer, if you could pronounce your name and
10 spell it out as well.

11 MR. ORTIZ: Thank you and good morning. My
12 name is Adam Ortiz, A-D-A-M O-R-T-I-Z. I'm acting
13 director of Prince George's County Department of
14 Environmental Resources. I'm joined here at the table
15 by our deputy director, Larry Coffman, and several
16 members of our staff in the audience along with our
17 sister agency, Department of Public Works.

18 I first want to say thank you for this
19 process. Thank you to all stakeholders in those who
20 expressed their opinions to us as we've gone through
21 this phase of our work. Our objective is here in

1 Prince George's County we went to be the leader in the
2 State, we want to be innovative, we want to be cutting
3 edge. We do not want to just comply, but we want to
4 exceed the standards and to the highest possible extent
5 engage in the very, very serious responsibility of
6 stewardship for our environment.

7 So we're engaged and we have been engaged,
8 and we will continue to be engaged with all
9 stakeholders as we implement existing future MS4
10 permits and programs that are, and outside of the
11 permit, to make sure that we do provide that leadership
12 and stewardship above and beyond. And that goes beyond
13 just infrastructure that's affected. That goes beyond
14 monitoring, but also outreach to all of our communities
15 and all of our residents in all of its diversity to
16 make sure that everybody in Prince George's County,
17 whether they're a business owner, resident, or visitor
18 that they also have power and responsibility as well in
19 keeping our environment clean. So we have doubled our
20 efforts and will continue to keep it at a very high
21 level to ensure that everybody who works, or plays, or

1 lives in Prince George's County is fully engaged, and
2 educated, and empowered with their own leadership and
3 stewardship for our environment here in the county.

4 Mr. Coffman has been more directly engaged
5 with some of the stakeholders, and he'll also make some
6 remarks.

7 MR. COFFMAN: Thank you. My name is Larry
8 Coffman, L-A-R-R-Y C-O-F-F-M-A-N. It's a pleasure to
9 be here this morning just to provide some brief
10 comments. I just want to reiterate what Mr. Ortiz
11 said, that the County Executive Baker has asked us to
12 take a leadership role in assessing bay restoration
13 efforts. And for this reason we're very eager to meet
14 those challenges in this next generation MS4 permit to
15 ensure implementation of our water shed implementation
16 plan and restore our impaired waters.

17 We see the MS4 permit as an important tool
18 for the county, for the EPA, to help ensure real
19 measurable progress is made towards restoration
20 efforts. We've been in constant consultation with a
21 number of environmental groups and advocates, and we're

1 in agreement that the current MS4 permit needs to be,
2 the language needs to be strengthened to ensure that
3 there are deadlines, milestones, and more objective
4 measures to assess progress towards necessary code
5 changes and use of green infrastructure to achieve our
6 goals.

7 The county intends to joint environmental
8 advocates in submitting specific language changes to
9 the permit to help strengthen the permit to ensure more
10 effective compliance with the program objectives. So
11 I'm going to let you know we'll be submitting
12 additional written comments.

13 MR. BAHR: Sure. Thank you. And the public
14 comment period will be open until June 27th. So
15 anybody who has, who is speaking today, who has
16 comments, can give them to us. I'm sure it would help
17 the stenographer out. But if you do have additional
18 comments that you want to send in to MDE please do so
19 by June 27th. And with that, thank you, Larry, and
20 thank you, Adam. Are there any elected officials that
21 would like to speak?

1 (No response.)

2 MR. BAHR: Okay. Now, we'll work through the
3 speaker's list. And I believe Dana Minerva is first.

4 MS. MINERVA: Good morning. I am Dan
5 Minerva, D-A-N-A M-I-N-E-R-V-A. And I am the
6 executive director of the Anacostia watershed
7 restoration partnership. In that role I have two main
8 duties: one, to help coordinate the restoration of the
9 Anacostia watershed across a number of federal, State,
10 and local jurisdictions to restore it. And second, to
11 advocate the restoration.

12 Today I am here in the role of advocate.
13 These are my own and I'm not speaking on behalf of the
14 partnership's members. I am also a resident of Prince
15 George's County, and I couldn't be more pleased and
16 proud today to be sitting here with you. I am thrilled
17 about the appointment of Adam Ortiz and Larry Coffman
18 as director and deputy director of the Prince George's
19 County Department of Environmental Resources.

20 In 1990 Larry Coffman with a napkin and
21 dreamed up a new way of restoring our rivers and

1 streams with environmental site design or LID. That's
2 a great heritage for the county to have and one I
3 believe should be honored in this permit. And that is
4 also why I am a bit -- since we have had 23 years of
5 experience with LID and ESD and a growing body of
6 scientific evidence showing that it works best, that is
7 why I'm still a little bit befuddled by this permit,
8 and particularly the guidance that MDE has developing,
9 which is incorporated by reference into the permit.

10 That guidance, as you know, includes a wide
11 variety of restoration techniques, including detention
12 ponds. Is it hard, after reading the National Research
13 Council's report on stormwater issues in 2008, it's
14 hard after reading those scientific -- the periods of
15 scientific journals which review the effectiveness of
16 detention or I should say the ineffectiveness of
17 detention ponds, to understand why detention ponds,
18 especially dry detention ponds, but all detention ponds
19 are still a part of MDE's guidance for retrofitting,
20 for the 20 percent retrofitting requirement you
21 mentioned.

1 Here is what the National Research Council
2 and others have said about retention. Retention does
3 not reduce the overall volume of polluted runoff, which
4 means it does not reduce the same mass of pollutants.
5 Even the Chesapeake Bay stormwater program, work
6 groups, guidance notes that pollutant removal, massive
7 pollutant removal is much greater in using ESD than
8 other -- than detention practices. Detention may
9 reduce peak flow from a particular site, but the impact
10 of volume is merely delayed and not mitigated.
11 Detention practices are often designed and constructed
12 on an ad hoc site basis without necessarily looking at
13 the appropriateness of the practice in light of the
14 conditions on the watershed. And concentration of the
15 pollutants leaving detention ponds may be reduced, but
16 the volume of stormwater flows leaving that keeps the
17 mass of the pollutants discharge. Detention does not
18 protect downstream channels from the erosion effect of
19 stormwater volume, which mobilizes sediment and
20 destroys biota.

21 I will be submitting my -- I'm sorry to say

1 my written testimony will be in excess of 15 pages,
2 consisting primarily of scientific citations,
3 scientific journals describing why the aspect of ESD,
4 its effectiveness, the way that it reduces the massive
5 pollutants in a much better way than gray practices,
6 and describes how the detentions have failed by
7 scientists working on an empirical level does not work.
8 Despite this many of our counties are implementing most
9 of their retrofits, of the 20 percent retrofit
10 requirement will be gray retrofits. Until recently
11 Prince George's County indicated that about 80 percent
12 of its restoration consist of gray infrastructure.

13 You might say, well, why is it necessary to
14 require green infrastructure in an NPS permit. I would
15 admit that it's not practical everywhere, but why not
16 require it where it is practical. And you might say,
17 well, shouldn't counties be allowed to determine what
18 practices to implement themselves? I think we need to
19 look at the practices the counties are saying they
20 intend to implement and look at whether that is the
21 right mix for us. Because if they're not implementing

1 green practices, and 80 percent of their retrofits are
2 gray, then that would seem to be a problem.

3 The Anacostia sediment TMDL states that 75
4 percent of the sediment in the Anacostia comes from
5 stream erosion. If we do not control volume of
6 stormwater as well as the pollutants in it, then we are
7 not going to meet Maryland's aquatic life standards. I
8 urged -- we know that green infrastructure works. The
9 scientific literature supports that it works. The
10 scientific literature supports that detention does not
11 work. As I said, I will be submitting lengthy
12 scientific references to support that view. Please
13 consider this as you revise the Prince George's County
14 MS4 permit. Thank you.

15 MR. BAHR: Thank you, Dana. Next up is
16 Rebecca Hammer, please.

17 MS. HAMMER: Good morning.

18 MR. BAHR: Good morning.

19 MS. HAMMER: My name is Rebecca Hammer,
20 R-E-B-E-C-C-A H-A-M-M-E-R. And I am testifying on
21 behalf of the National Resources Defense Council. I

1 appreciate this opportunity to testify about the draft
2 Prince George's County MS4 permit. As many others will
3 testify today, this permit is critically important to
4 Maryland's efforts to clean up our rivers and streams
5 in Prince George's County and further downstream the
6 Chesapeake Bay. My testimony will focus on why NRDC
7 believes this draft permit falls short of what is
8 needed to successfully restore local waters and assure
9 the legal requirements for stormwater permits in three
10 states.

11 First and most critically, the permit does
12 not fully ensure in compliance with water quality
13 standards and total maximum daily load allocations.
14 The permit does represent an improvement over last
15 years Baltimore City MS4 draft permit because it
16 recognizes, as the Baltimore permit does not, that
17 water quality standards compliance is not an
18 unenforceable goal, but rather a special requirement of
19 the Clean Water Act. Nonetheless, the Prince George's
20 permit specifically excuses the county from maintaining
21 water quality standards or waste load allocations as

1 long as the county complies with the other requirements
2 contained within the permit. This approach to water
3 quality standards compliance may be acceptable in
4 certain cases, when a permits conditions set out a
5 clear and enforceable cap toward attainment of those
6 standards by a certain future date, such as through a
7 compliance schedule. However, a permits requirements
8 for the county's self-imposed compliance schedule or
9 restoration plan are not legally sufficient because the
10 permit requires the county to develop a schedule for
11 implementing projects and programs, not for attaining
12 actual pollution reduction. The flaw inherent in this
13 approach is that even if the county complies with the
14 schedule and implements this project and permits on
15 time there is no guarantee that they will achieve the
16 pollution reductions needed to keep the county on track
17 for detainment of waste load allocations by its chosen
18 deadline. The last thing the county or its citizens
19 want is for the plans final deadline to arrive only for
20 the county to discover that its implementation actions
21 have not achieved the progress the county thought they

1 would. Including enforceable pollution reductions in
2 the plan would solve this problem and provide certainty
3 that the county is moving in the right direction.

4 MDE must also provide for this restoration
5 plan to be incorporated into the permit via the major
6 permit modification process so that the public will
7 have the opportunity to object to MDE's approval of the
8 plan if it is inadequate to achieve water quality
9 standards and to enforce the plan if the county fails
10 to properly implement it. This type of oversight
11 enforcement is essential to the regulatory scheme
12 congress designed in the Clean Water Act.

13 Second, the permit allows the county to
14 implement impervious surface area restoration
15 techniques that are ineffective, as Ms. Minerva just
16 testified to. The restoration of existing impervious
17 surface area is a key requirement in any MS4 permit as
18 water quality standards are unlikely to be achieved
19 until runoff from existing impervious surfaces is
20 reduced. Yet the MDE guidance document referenced in
21 the permit provide restoration credit for

1 implementation of practices like sediment detention
2 ponds that are known to be ineffective at reducing
3 stormwater volume and pollutants. This approach will
4 leave the county, could leave the county to waste
5 precious funds on outdated practices. And because it
6 is geared only towards reducing the pollutants in the
7 Chesapeake Bay TMDL it may not lead to attainment of
8 local water quality goals. We urge MDE to update this
9 guidance to require suit a preference for the use of
10 environmental site design practices and techniques that
11 reduce stormwater runoff volume or alternatively to
12 include an ESD requirement or preference within the
13 permit itself.

14 Third, and lastly, the permits monitoring
15 requirements are insufficient to track the county's
16 progress. While the permit contains general statements
17 directing the county to use monitoring to assess its
18 efforts, the permits specific monitoring requirements
19 direct the county to comprehensively monitor only one
20 water body in addition to more limited monitoring in
21 the second water body. In a county with a dozens of

1 water body subject to TMDLs this requirement is
2 inadequate to track the performance of a restoration
3 programs. Water quality monitoring is the only way to
4 know for certain whether the county's implementation
5 actions are working. Modeling which is an educated
6 guess based on the models assumption cannot entirely
7 substitute the real world monitoring results. The
8 permit should, therefore, require routine monitoring of
9 all water bodies subject to TMDLs.

10 In conclusion, we urge MDE to strengthen this
11 permit before issuing it in its final version. It is
12 significant and to my knowledge unprecedented that
13 Prince George's County, the permittee, has expressed to
14 stakeholders and to MDE a willingness for the permit to
15 contain stronger and more objective requirements than
16 it currently does. There is, therefore, no reason for
17 MDE not to strengthen this permit when improvements are
18 simultaneously urged by Maryland citizens, agreed to
19 the permittee, and required by the Clean Water Act. MDE
20 may want to issue identical permits to all MS4s in the
21 state, but we remind the Department that this is a

1 phase one individual MS4 permit, not the general permit
2 and, therefore, it must contain requirements to each
3 individual. Strengthening this permit in the key
4 respects suggested will ensure that Prince George's
5 County does its part to clean up the whole waters on
6 the Chesapeake Bay. Thank you. And we will be
7 following up with written comments.

8 MR. BAHR: Okay. Thank you, Ms. Hammer.
9 Next on the list is Laura Chamberlin.

10 MS. CHAMBERLIN: Good morning. My name is
11 Laura Chamberlin, L-A-U-R-A C-H-A-M-B-E-R-L-I-N. And
12 I am testifying on behalf of the Alice Ferguson
13 Foundation. Thank you for this opportunity. The Alice
14 Ferguson Foundation's mission is to connect people to
15 the natural world, sustainable agricultural processes
16 and the cultural heritage of their local watershed
17 through education, stewardship and advocacy. As a part
18 of our work, we coordinate the trash free Potomac
19 watershed and work with local stakeholders to solve the
20 litter and waste problem in our region through policy
21 enforcement, market-based incentives, public education,

1 and of course regulation.

2 So through a multi-partner effort across
3 three jurisdictions, the Anacostia was listed as
4 impaired for trash. And then a TMDL was passed in the
5 fall of 2010. Two-and-a-half years later the trash
6 TMDL implementation plan for Prince George's County is
7 still in development and it is difficult to know if it
8 will be sufficient in meeting the benchmarks of the
9 TMDL, and more importantly, actually result in trash
10 free waters. With that said, this MS4 permit is a huge
11 step forward for the county in helping us get answers
12 to those questions. However, there are still several
13 areas of the permit that could be improved to
14 adequately address trash and litter.

15 So we know that trash is solvable problem,
16 but it does need to be a collaborative and integrated,
17 and include communication between the county and
18 stakeholders. The MS4 permit does outline a strong
19 plan for developing those strategies and then thus
20 communicating it to the public. But there is one piece
21 for monitoring that needs to be strengthened.

1 If the monitoring plan for the trash TMDL
2 mirrors what is stated for other TMDLs it will not
3 sufficiently evaluate the effectiveness of the TMDLs.
4 With only three trash TMDLs in the country there is
5 little guidance to lean on when developing the TMDL and
6 waste load allocations. So it remains critical that
7 sufficient monitoring be conducted and described in
8 this permit to ensure that benchmarks are met and that
9 it also results in a river that is no longer impaired
10 with trash and debris. IF the river continues to be
11 impaired, then we do need to revisit that waste load
12 allocation and develop or revise TMDL. The spirit of
13 litter solutions in this region has always been
14 collaborative and we encourage the county to continue
15 to embrace this spirit by working with the District of
16 Columbia and Montgomery County to develop monitoring
17 protocols that are efficient and effective in
18 determining the success of implementation.

19 The permit leaves options for trash reduction
20 to be determined by the still unknown implementation
21 plans. Robust public participation will be critical to

1 ensuring that the implementation plan has an
2 appropriate balance of source reduction and immediate
3 trash removal strategies. Public participation in the
4 implementation plan development is especially critical
5 because neighboring jurisdictions and other
6 stakeholders are already working on implementation and
7 are ready and willing to continue collaboration for
8 increased efficiency.

9 As others have already discussed, this permit
10 should be strengthened further with requirements for
11 green infrastructure so it controls stormwater. And
12 one of the reasons we like green infrastructure for
13 stormwater is that it can also capture trash and
14 debris. Green infrastructure has proven to be
15 effective at that, and we must make sure that it is
16 also incorporated in this permit. These methods also
17 have the -- this techniques also have the added benefit
18 of creating healthier communities and improving the
19 quality of life for residence with local jobs, green
20 spaces, reduced flooding, and improved air quality.
21 There is additional evidence that shows that green

1 communities have secondary impacts on littering, as
2 community beautification has further shown there is
3 evidence that it reduces littering and illegal dumping.

4 Overall, this permit is a step forward in
5 promoting improved trash reduction strategies and with
6 improved monitoring, increased focus on green
7 infrastructure and continued stakeholder involvement it
8 will be a highly effective tool for litter solutions.

9 MR. BAHR: Thank you, Ms. Chamberlin. Next
10 up is Chris Yoder.

11 MS. YODER: My name is Chris Yoder, that's C-
12 H-R-I-S Y-O-D-E-R. When I came in I signed up to
13 speak for the Sierra Club, but our executive director
14 for Maryland chapter was able to make it. So he will
15 comment on behalf of the chapter. I will comment for
16 myself and as a Maryland citizen.

17 And the first -- my first comment is really a
18 question for which anybody in this room I suspect knows
19 the answer and that's, How long, how many years has it
20 been since we first made a commitment to clean up the
21 Chesapeake Bay and how clean is the water in the Bay?

1 I ask that question because I can think of a parallel.
2 I'm now in the 15th year of my three-year plan to lose
3 15 pounds. I've gained 20. (Laughter.) That goes to
4 a point actually that Ms. Hammer from NRDC made which
5 is, the permit as drafted does not guarantee outcomes
6 just by follow -- it says follow the process. It
7 doesn't guarantee outcomes. And all the plans in the
8 world, and all the good intentions of the world are not
9 outcomes.

10 And its' going to be critically important
11 that this permit actually require the county to take
12 actions that achieve outcomes. And so that means that
13 the permit is going to have to have restoration plans,
14 and benchmarks, and monitoring, and consequences if the
15 monitoring does not show that the actual outcomes have
16 been achieved. That means inspecting and maintaining
17 the system, measuring what you find, measuring
18 everywhere not modeling, and then again, as I say,
19 actual consequences. Because the problem with my
20 implementation of my three-year plan is when I see a
21 pizza slice there's no conse -- well, there is a

1 consequence. I don't lose weight. But the same thing
2 is going to happen if the county allows -- you know,
3 even with good intentions, say a developer to put down
4 impervious surface or some, you know, just anything can
5 happen. Nobody is going to say oh, I did it to pollute
6 the bay, just like I didn't eat that pizza to gain
7 weight. But if the bay remains polluted, the water
8 remains polluted, we will not have achieved the
9 outcome.

10 Many people now have commented on
11 environmental site design. That's process, and I'll
12 echo that, but I'm not going to repeat it. I'm going
13 to close with a simple observation. Three weeks ago I
14 was standing at the end of a pier in Red Fish Lake in
15 Idaho and I could look down and see the bottom, which
16 was about 25 feet below me and see clearly every rock
17 and pebble on the bottom of that lake. And most people
18 in this room know, but I have read about in the
19 "Baltimore Sun" there a former state senator who every
20 year does a wade in in the Chesapeake Bay. He just
21 goes out on the beach and wades down until he can't see

1 his feet, which I read usually occurs when he's about
2 knee deep or maybe lower thigh deep in the bay. And
3 that comparison demonstrates how far we have to go.
4 I'm sure that a spokesman for industry, for developers,
5 for people whose actions inadvertently -- I think
6 there's very few people who wake up in the morning and
7 say, how can I pollute the bay. But our actions do
8 have that result. And we need -- people are going to
9 call for compromise. They're going to say, well, we
10 have to compromise. We have to have balance. And I
11 think the difference between the water in that mountain
12 lake and the water that we now have in our bay
13 demonstrates just how far out of balance we are, how
14 much we have already compromised. The compromises have
15 been made. Our water is out of balance and it's going
16 to take strong effective action with monitoring and
17 consequences for failure to achieve outcomes, not just
18 failure to achieve process, before we will achieve the
19 goals that we're seeking through this permit. That's
20 it. Thanks.

21 MR. BAHR: Great. Thank you, Mr. Yoder.

1 Next up is Jennifer Chavez, please.

2 MS. CHAVEZ: Good morning. My name is
3 Jennifer Chavez, that's J-E-N-N-I-F-E-R C-H-A-V-E-Z.
4 I'm with Earth Justice, and I'm speaking here today on
5 behalf of the Anacostia River Keeper, Patuxent River
6 Keeper, Potomac River Keeper and Baltimore Harbor Water
7 Keeper.

8 We are particularly interested in this permit
9 because it has a potential to be a key tool in
10 restoring these rivers as well as the bay and it will
11 set the tone, at the very least, for permits throughout
12 Maryland that MDE is scheduled to update and reissue,
13 including the Montgomery County permit, which also
14 discharges into the Anacostia River and will be due for
15 renewal in just two short years.

16 We urge MDE to revise the draft permit for
17 Prince George's County storm sewer system and publish a
18 revised draft as soon as possible.

19 The residents and visitors of the county want
20 and need clean restored rivers and streams in which to
21 fish and swim, and enjoy the simple beauty of our

1 natural environment. The county's stormwater system is
2 of course not the only source of pollution that needs
3 to be addressed, but it is an important one.

4 For Prince George's County this permit
5 renewal presents an enormous opportunity to create
6 green jobs, attract more local businesses to help
7 rebuild the economy, and improve the quality of life
8 for everyone in the county by making it a more verdant
9 and sustainable community.

10 For Maryland, the renewal of this permit
11 implicates a number of mandatory legal requirements.
12 And primary among those is MDE's own regulation, which
13 allows MDE to issue a pollution permit, pollution
14 discharge permit only if MDE makes a determination that
15 the discharge is or will be in compliance with all
16 applicable requirements of water quality standards the
17 Federal Clean Water Act and best available technology
18 among other things.

19 We know that MDE intends to use this permit
20 as a template for others in the State. So in order to
21 meet legal requirements and be effective for cleaning

1 up the rivers of Prince George's County in Maryland, we
2 think the permit needs to be revised to address the
3 following four matters at a minimum.

4 First, in the area of attainment of water
5 quality standards. I'll be echoing what several other
6 people have already mentioned. This permit needs to
7 include clear and clean language that prohibits non-
8 stormwater discharges into the storm system and
9 prohibits discharge of pollutants from the system that
10 cause violations of applicable water quality standards.
11 And we think that the proposed permit language has
12 gotten closer to doing this than it did in the past,
13 but it's still confusing and unclear on this point.

14 And second, as a practical matter, there
15 needs to be a mechanism for ensuring that attainment of
16 water quality standards and TMDL waste load allocations
17 actually occurs. And we think that, of course, the
18 TMDL implementation plans, or what the permit currently
19 calls restoration plans, are that mechanism. So the
20 permit needs to require that these TMDL implementation
21 plans include enforceable interim milestones and

1 benchmarks as well as dates for final attainment. And
2 as Ms. Hammer mentioned, because these plans are the
3 heart of the permit, they are the only mechanism by
4 which MDE can make a determination that the discharges
5 from this system will be in compliance with water
6 quality standards. This means that the TMDL
7 implementation plans, including the actions that will
8 be taken under them and the schedules for implementing
9 them, are key components of the permit. And as such,
10 MDE has to separate approve them and incorporate them
11 into the permit through a major permit modification.
12 The permit currently indicates that MDE will approve
13 the plans, but without subjecting those to public
14 process, we think that the permit is contrary to the
15 law, in short, short circuits important public
16 processes.

17 Third, in the area of representative
18 monitoring. It's been said several times, the permit
19 needs to require a monitoring program that is
20 representative of the stormwater system. The proposed
21 monitoring requirements don't appear to provide

1 anything approaching representative data. The
2 monitoring plan needs to provide an adequate amount and
3 kind of information needed to assess compliance with
4 the interim deadlines and final achievement of water
5 quality standards and waste load allocations.

6 We will be submitting written comments after
7 today, and we will be proposing that the permit require
8 the county to develop, and MDE to review and approve, a
9 comprehensive monitoring plan that is sufficient to
10 serve the MDE's and the public's needs to assess
11 progress and compliance.

12 And finally, in the area of maintenance. MDE
13 needs to require that stormwater control practices are
14 not just installed or retrofitted as appropriate, but
15 also maintained as needed. And so we ask that
16 maintenance requirements be incorporated into the
17 permit.

18 Let me close by saying that the renewal of
19 this permit marks a crucial point in the restoration of
20 Maryland's waters, including the Chesapeake Bay. The
21 bay, and the rivers and streams of Prince George's

1 County cannot wait another five years or more of
2 inadequate progress. Thank you.

3 MR. BAHR: Thank you, Ms. Chavez. Next up is
4 Jim Foster.

5 MR. FOSTER: Good morning. I'm Jim Foster,
6 J-I-M F-O-S-T-E-R. I'm president of the Anacostia
7 Watershed Society. Good morning. Thank you for having
8 us here.

9 The Anacostia River has the distinction as
10 one of our nations dirtiest rivers, but is also known
11 as our Capital River makes this distinction all the
12 more regrettable. Changing the river's reputation has
13 been and should be the responsibility of the State of
14 Maryland, Montgomery and Prince George's County, and
15 the United States government. Changing this reputation
16 of the Anacostia River is an effort requiring all the
17 help to available, including the permit enforcement.

18 An Anacostia River with fully remediated
19 water quality and restored natural resources means the
20 citizens of Prince George's County will benefit a
21 greatly improved neighborhood life with a cleaner and

1 less flood prone river, and the prospect of more job
2 creation related to restoration activities. These
3 worthy goals are to what the county and local
4 governments are dedicated to in reaching these goals
5 should be enabled by this MS4 permit. We at AWS
6 commend the Maryland Department of the Environment for
7 the improvements in the current creation of this
8 permit, among which are a more specific requirement to
9 restore in each five-year term 20 percent of impervious
10 cover. The clear statement that the permit is the
11 backbone to achieving the Chesapeake Bay watershed
12 implementation plan and TMDL requirements, the clear
13 requirements to track any stormwater management plan
14 waivers, and implementation of the requirements of
15 Maryland's Stormwater Management Act of 2007.

16 For some time AWS has partnered with other
17 Prince George's County environmental and neighborhood
18 groups in our Prince George's County healthy
19 communities working for strong stormwater management
20 laws, stormwater runoff remediation fees, and now a
21 strong MS4 permit for the county. In recent weeks we

1 have submitted to the Prince George's County Department
2 of Environmental Resources a list of proposed
3 improvements to the permit. We're pleased with the
4 response of acting director Adam Ortiz and acting
5 deputy director Larry Coffman to the proposed
6 improvements and with the effort they have made to
7 converse with MDE about them.

8 Today, AWS and our advocacy partners submit
9 these recommendations to MDE. I've attached them to
10 this statement and respectfully request that they be
11 made part of the hearing record. We will be submitting
12 them as part of the record. These recommendations have
13 adopted what result in a permit of greater
14 enforceability, accountability, and higher benefit to
15 cost for implementation. I'd like to describe our
16 recommendation briefly in order to underscore our
17 support for them.

18 Number one, water quality standards. The
19 permittee, Prince George's County, must manage,
20 implement and enforce programs, plans, and practices in
21 this permit which eliminate non-stormwater discharges

1 into the MS4 and eliminate pollutants in stormwater
2 discharges from the MS4. Compliance with these in
3 parts four through seven of the permit will constitute
4 compliance by the county of the Clean Water Act.

5 Restoration plans, also known as TMDL
6 implementation plans. The permit should require the
7 county to prepare plans as enforceable permit
8 requirements to implement approved TMDLs and waste load
9 allocations with compliance schedules containing the
10 final day for meeting applicable waste load allocations
11 and interim milestones in the merit benchmarks. These
12 deadlines and requirements must be consistent with the
13 Chesapeake Bay TMDL and watershed implementation plans.

14 Number three, impervious surface restoration.
15 As part of the permit requirement to restore during
16 each five-year term 20 percent of impervious surface,
17 the permit must also require the county to use
18 environmental site design unless it can prove the
19 infeasibility of retaining on-site at least one inch of
20 stormwater from a 24-hour storm using environmental
21 site design.

1 Number four, maintenance. The permit must
2 require the county to establish within a set time frame
3 a maintenance plan for county owned and operated
4 practices and accountability requirements for all non-
5 county owned and operated practices.

6 Number five, monitoring, as has been
7 discussed by pervious speakers. The permit must also
8 require the county within two years of the effective
9 date to establish a monitoring program sufficient to
10 assess compliance with all provisions of the permit,
11 including TMDL restoration plans.

12 Number six, public participation in
13 restoration plans and stormwater management programs.
14 The permit must require that public participation
15 plans, restoration, and stormwater management programs
16 include any requested public hearing and continue with
17 public outreach and public input into such plans in 30-
18 day comment periods.

19 Number seven, maximum extent practical. The
20 permit should require that all stormwater discharges to
21 the MS4 be controlled to the maximum extent practicable

1 and that period evaluations by MDE be undertaken to
2 assure such control is being met.

3 Number eight, other management program
4 issues. The permit should require that exemptions
5 under the Stormwater Management Act of 2007 should be
6 justified and that the associated pollutant load
7 resulting from such granted exemptions be identified
8 and also justified.

9 Number nine, trash and litter. The permit
10 should require that the county issue a report on the
11 evaluation of its trash and litter programs required in
12 part five of the permit.

13 And last, number ten, completion of local
14 code changes so as not to block the use of
15 environmental site design. The permit should be
16 amended to require the County Council and Executive to
17 change local land use and other ordinances within two
18 years to remove any impediments to use of ESD and to
19 implementation of the 2007 Stormwater Management Act.

20 AWS strongly believes that these recommended
21 changes to the MS4 permit will add strength to the

1 stormwater runoff remediation efforts and will bring
2 the benefit to the Anacostia River. We, therefore,
3 urge MDE to adopt these recommended changes during the
4 period of time after today's public hearing and the
5 issuance of the final permit test. We accompany our
6 request with our steadfast commitment to assist both
7 MDE and Prince George's County in the full
8 implementation of the permit, particularly in reaching
9 out to the citizens and local governments in the
10 Anacostia watershed. I greatly appreciate the
11 opportunity to present our views at this public
12 hearing. Thank you.

13 MR. BAHR: Great. Thank you, Mr. Foster.
14 Next up is Andrew Fellows, please.

15 MR. FELLOWS: Good morning. My name is
16 Andrew Fellows, A-N-D-R-E-W F-E-L-L-O-W-S. First,
17 thanks for holding this hearing and extending the
18 comment period. We greatly appreciate it. I also am
19 speaking really on behalf of 7,000 members of Clean
20 Water Action that live in Prince George's County,
21 actually more than 30,000 that live in Maryland, and

1 actually over a million members in the United States.

2 One of the things that I -- well, first off,
3 I want to say that we associate ourselves with the
4 remarks of our environmental colleagues who spoke
5 previously, and that I think that are going to be
6 speaking before you. I want to underscore that really
7 strong unanimity among the environmental community
8 that's about to be enforced with this permit. I also
9 am extremely, I just wanted to underscore the fact that
10 we're in this with the Prince George's County
11 government. I think that the remarks of Mr. Ortiz and
12 Mr. Coffman, the fact that we really have an
13 opportunity here to have an exemplary permit that
14 really may be the best in the state. Because this may
15 be a template, that there are some concerns by Maryland
16 Department of Environment that there should be the
17 concerns of other counties who are concerned about
18 overly stringent permits for their counties, that
19 somehow that that should diminish the language of this
20 permit. And I think that that is a real mistake. I
21 think that there should be healthy competition among

1 local jurisdictions. The Clean Water Act is a federal
2 law of course, and so partnership with the states and
3 the issuance of the permits, there should be healthy
4 competition among counties to have the language that
5 would achieve the most water protective permits
6 possible. And those counties who are least comfortable
7 with that sort of permit language should not be
8 degrading the efforts of others. And so I think that's
9 an important point that I would like to make today.

10 We are going to be submitting comments, you
11 know, further comments. I mostly wanted to make that
12 point known today.

13 And finally, I wanted to say that just in
14 full disclosure, I am a Mayor. I'm an elected
15 official, but I didn't speak earlier because I'm not
16 here -- I'm here in the capacity of Clean Water Action.
17 But I did want to share my opinion. This is not an
18 official position of the city, but municipalities in
19 Prince George's County I think are comfortable being
20 with our county because they're comfortable with the
21 County Executive, and the County Council, and the staff

1 of the direction on environmental protection. So
2 there's a lot of comfort with what we're doing. And I
3 have to say, I'm really proud to be an elected official
4 and a resident of Prince George's County. So thank you
5 for letting me testify.

6 MR. BAHR: Sure. Thank you, Mr. Fellows.
7 Next up is Vicky Hageman.

8 MS. HAGEMAN: Thank you very much. My name
9 is Vicky Hageman, V-I-C-K-Y H-A-G-E-M-A-N. I am the
10 current chair of CCRIC, Citizens to Conserve and
11 Restore Indian Creek. I'm also a PG resident, and I
12 speak on behalf of myself at this time with a few
13 inputs on things that we have learned with the
14 environmental organizations.

15 I apologize, I was here under the impression
16 that I was discussing whether the "N" pads and the
17 permits for industrial parks and what have you would be
18 transferred to Prince George's County. I have a
19 business in Beltsville Industrial Park. And most of my
20 time is not spent with writing the laws or regulating
21 and those things. I do a lot of monitoring. I do a

1 lot of calling and reporting. And with that I would
2 ask that this permit please be a little bit stronger
3 with the enforcement and the consequences that need to
4 take place with the continued pollutants and runoff
5 coming from property owners or businesses, or any of
6 the, oh, I don't want say, but it turns out to be some
7 of the usual places and have to go out and report the
8 same sites three and four times is a little deterrent
9 to people who are out there working hard to try an
10 monitor things.

11 I also am concerned with the issue of only
12 one stream being monitored and that being an example of
13 whether everything is working or not working. I think
14 definitely more examples and monitoring needs to be
15 done.

16 And as far as the detention ponds, I would
17 have to agree just with my little site surveys that I
18 have done over the last three years to see detention
19 ponds built, failed, not maintained, overflowed, clay
20 and sediment runoff, it just seems to be a repetitive
21 issue.

1 Thank you very much for the time today.

2 MR. BAHR: Thank you, Ms. Hageman. Next up
3 is Diane Cameron.

4 VOICE: She just stepped out.

5 MR. BAHR: Oh, no. Okay. We'll come back to
6 her. How about -- I need some help with this. Is it
7 Clare Wall, CBF? Elaine Wall? Okay. That "E" looked
8 like a "C."

9 MS. LUTZ: Good morning. My name is Elaine
10 Lutz, E-L-A-I-N-E L-U-T-Z. And I'm the staff attorney
11 at Chesapeake Bay Foundation. And please accept this
12 statement today on behalf of the Chesapeake Bay
13 Foundation and our more than 1,000 members in Maryland
14 on the tentative determination to issue a national
15 pollutant discharge elimination system municipal
16 stormwater permit to Prince George's County. And
17 Chesapeake Bay Foundation will also be submitting
18 detailed written comments before the end of the formal
19 comment period.

20 First we'd like to thank the department for
21 listening to our concerns over the past few months, and

1 working with us and other interested parties to draft a
2 permit that already makes some improvements to previous
3 permit requirements.

4 As we all know, stormwater runoff from
5 developed urban areas is an obvious and significant
6 source of pollution that contaminates the local water
7 bodies in and around Prince George's County. Not only
8 does stormwater runoff contain nitrogen, phosphorous
9 and sediment, it also washes oil products, heavy metals
10 and trash into the bay tributaries.

11 A few areas of the permit must be improved,
12 however, so that the new requirements adequately
13 prevent this polluted stormwater from spoiling our
14 streams, river and, of course, the Chesapeake Bay.
15 Some of the three areas of change I'll be highlighting
16 today are very much in common with some of the other
17 themes you've heard today, such as inclusion of
18 deadlines and new benchmarks, the inclusion of
19 objective standards and the use of ESD and green
20 infrastructure.

21 First, the permit must include a

1 quantification of the current loadings of nitrogen, and
2 phosphorus and sediment from all identified sources in
3 order to establish a baseline from which to assess the
4 progress towards either the bay-wide or any local TMDLs
5 and waste load allocations. Currently, there is no way
6 in the permit to determine whether the stormwater
7 management practices considered or implemented are
8 reducing pollutant loads down to the waste load
9 allocations since there is no requirement to assess the
10 current loadings from the existing stormwater
11 infrastructure. Because this new permit round seeks to
12 tie the MS4 implementation to meeting the watershed
13 implementation plan goals, these sources should apply
14 the Chesapeake Bay model values or event mean
15 concentrations as monitored to quantify the current
16 loadings of nitrogen, phosphorus and sediment.

17 Second, some sections in the permit
18 containing TMDLs, restoration plans, and management
19 programs must be clarified, strengthened, and made
20 enforceable and fully accountable. Some of these you
21 have heard from other environmental groups today, and I

1 would like to incorporate their comments into my own.
2 The section on stormwater management allows stormwater
3 exemptions and waivers and, therefore, must require
4 programmatic assessment of the impact of such
5 exemptions and waivers. Since the MDE guidelines for
6 impervious assessment calculations incorporated into
7 the permit assume certain loads based on the era of
8 development, development that does not comply with all
9 existing stormwater laws and regulations, must be
10 accounted for in any reduction calculations.

11 The restoration plans as previously mentioned
12 lacks specific quantitative measurement of restoration
13 that would provide clear guidance to the county. Many
14 practices, as you have heard, in the stormwater manual,
15 such as detention systems, have been recognized by the
16 MDE guidance as providing very little water quality
17 benefits. Instead, this permit should impose a higher
18 performance standard similar to that chosen for the
19 District of Columbia's permit, that being the on-site
20 retention and treatment of at least the full 90th
21 percentile, 24-hour storm event, which would be about

1 one inch of treatment on site. This approach has many
2 benefits, such as flexibility as it responds to real
3 time changes in precipitation patterns over the next
4 several years and aligns with the level of performance
5 required for federal construction projects. This
6 performance based approach should be done primarily
7 through environmental site design or green
8 infrastructure as recommended by many EPA guidance
9 documents, and as you've heard the benefits of here
10 today.

11 This permit must include a compliance
12 schedule that includes interim milestones and numeric
13 benchmarks. These should be consistent with the
14 deadlines associated with the Chesapeake Bay TMDL and
15 the watershed implementation plan. These milestones
16 are essential to determining whether the implementation
17 strategy and chosen BMPs are sufficient to meet final
18 waste load allocations.

19 Third, the permit must include a monitoring
20 and assessment program which is capable of providing
21 accurate, timely, and statistically significant

1 information on county water quality. The minimal one
2 watershed focus is from a single outfall and a single
3 in-stream station in a over 300,000 acre jurisdiction
4 is insufficient to support a complex permit and to help
5 -- insufficient to help determine the effectiveness of
6 the BMPs and retrofit regimes over time, which is
7 crucial for adaptive management. The weak monitoring
8 system, in addition to appearing insufficient on its
9 face, is regarded by CBF's senior scientist as
10 completely inadequate to make the necessary assessments
11 of the permit's efficiency, especially for the county
12 to meet water quality standards as required by State
13 law.

14 In conclusion, these areas of change are not
15 exhausted, and we would like to reserve for coverage in
16 our formal written comments any additional concerns.
17 And as the Department is aware, we worked for the past
18 few months with members of the Maryland stormwater
19 consortium , many of which occurred from today and with
20 the county government. And we very much appreciate all
21 the help and consideration you've been giving to our

1 concerns. And we will submit the comments by the end
2 of the formal comment period.

3 MR. BAHR: Okay. Great. Thank you,
4 Ms. Lutz. Let's go back to Diane Cameron, please.

5 MS. CAMERON: Thank you. My name is Diane
6 Cameron, D-I-A-N-E C-A-M-E-R-O-N. I am here today to
7 testify on behalf of Autobon Naturalist Society for
8 which I am the conservation director. And I have three
9 major points.

10 First of all, Autobon Naturalist Society
11 supports the total list of ten key points of change
12 that have been proposed for this permit, and that have
13 been supported by previous speakers, and listed out in
14 detail for you by Jim Foster, and supported by a number
15 of groups. Also, our points of change proposed for the
16 permit are supported by Prince George's County
17 Department of Environmental Resource director and co-
18 director, Adam Ortiz and Larry Coffman. And we are
19 very pleased to be working closely with Adam and Larry
20 on improving the permit and also in committing to
21 implementing the permit once it's issued. And we urge

1 you, as other speakers have done, to improve the permit
2 as requested both by Prince George's County and by the
3 coalition of organizations.

4 My third point is that we especially are
5 interested in making sure that the environmental site
6 design preventions of the permit are improved as we
7 have requested. And there are two provisions that
8 other speakers have noted, and I want to also
9 emphasize, which are the impervious surface restoration
10 provision, also known as the retrofit provision, and
11 also the need to upgrade the ESD code change portion of
12 the permit. Both of these provisions as now in the
13 draft Prince George's County permit are grossly
14 inadequate because on the one hand, as already noted by
15 other speakers, including Becky Hammer of NRDC, and
16 Dana Minerva, the retrofit provision as now written is
17 open ended and allows the permittee to use any
18 combination of gray or green retrofits, which is not
19 supported by the science. We ask that the entire
20 retrofit provision be required to be met through,
21 solely through green environmental site design

1 measures.

2 Also, on the point of co-changes. We are
3 mystified as to why the Prince George's County draft
4 permit removed a provision that was the basic provision
5 that was included in the Montgomery County 2010 MS4
6 permit and also is included in the draft City of
7 Baltimore permit, which requires the permittee to
8 systematically review and then revise its totality of
9 local codes, especially planning, zoning, housing,
10 ordinances, road codes to promote and remove
11 impediments to the implementation of the environmental
12 site design with mandatory deadlines for the review and
13 for the revision. And we are requesting a total of two
14 years for that process. So we request that MDE
15 reinsert that provision back into this permit and into
16 all MS4 permits and make the total deadline be a two-
17 year process.

18 Finally, also in support of our green
19 environmental site design request for this permit, we
20 will submit by the June 27th deadline written comments
21 that will give a detailed accounting of our estimates

1 for green stormwater jobs that Prince George's County's
2 investment in this permit implementation can
3 potentially either create or support an ongoing job.

4 And just in the Anacostia portion of the
5 county alone we have used the Obama Administration's
6 stimulous estimate that roughly for every 92,000
7 dollars invested in green infrastructure projects, one
8 full-time job for one year is created or supported. We
9 apply that number to the Anacostia restoration plans on
10 project inventory for green stormwater retrofits in the
11 Anacostia sub-watershed by sub-watershed, and we also
12 examined the council districts that those sub-
13 watersheds related to, and we totaled that up to
14 roughly 9,000 jobs created or supported over a 10-year
15 period, because the Anacostia restoration plan in a 10-
16 year plan. And this does include, for example, lower
17 Beaver Dam Creek, with a potential total of close to
18 4,500 jobs created. And also for Northwest Branch, the
19 portion that's in Prince George's County, for roughly
20 1,500 jobs created. And these involve a whole range of
21 jobs from relatively lower set of skills, entry level,

1 to medium level, to high level jobs, including
2 everything from greenhouse workers to landscape
3 architects and architects, to plumbers, janitors,
4 landscape workers, and truck drivers. So it was a very
5 wide range of jobs that are invented in this permit if
6 MDE will improve the permit as we have requested so
7 that it is a clear, and effective, and science faced
8 mandate for environmental site design retrofits. Thank
9 you.

10 MR. BAHR: Thank you, Ms. Cameron. Next up
11 is Marian Dombroski.

12 MS. DOMBROSKI: Good morning. My name is
13 Marian Dombroski, M-A-R-I-A-N, Dombrowski, D-O-M-B-R-O-
14 S-K-I. I'm a registered architect, the lead AP, and
15 director of Friends of Quincy Run. I also coach crew
16 and row daily on the Anacostia River, which is about a
17 mile from my home. I'm one of the fortunate people who
18 have an up close and personal relation with the
19 Anacostia. Today I represent Friends of Quincy Run,
20 which is a citizens group working to restore and
21 protect the health and liveability in our watershed as

1 well as the rowing community of almost 300 rowing.

2 I'm also a member of the citizen group
3 planning the King Fisher Water Trail on the Anacostia.
4 New visitors to the river always remark in disbelief at
5 the natural beauty and wild appearance surrounding the
6 Anacostia. It's our responsibility to make its river a
7 source of pride and sustain rather than a health hazard
8 for wild and not-so-wildlife.

9 The rowing community will be submitting
10 testimony reflecting their experiences and hopes for
11 the water. Please be advised that their testimony
12 contains strong language and graphic images. We do
13 invite you also to experience the river from one of our
14 boats. We'll try to avoid giving you a dip. It's not
15 swimable.

16 As you know, last year we celebrated the 40th
17 anniversary of the Clean Water Act, one of the most
18 significant pieces of legislation for the health of
19 Americans. The Act promoted the idea that everyone has
20 the right to clean, pure water. Forty years later
21 Governor O'Malley echoed this when he declared that the

1 goal for Maryland's waterways are swimable and
2 fishable. Our MS4 permit will determine, to a large
3 extent, whether or not Prince George's County will
4 reach that goal. We urge you to recognize the urgency
5 of your actions and put first the health and rights of
6 our citizens, not to the extent practicable of
7 (unintelligible.)

8 The Department of the Interior designated
9 this as National Fishing and Boating Week. Fishing and
10 boating go on every day, every week on the Anacostia.
11 These should not be potentially hazardous activities.
12 Clean water is our right. Our waterways are our most
13 important natural feature. Poor development practices
14 continue to degrade and deform down, undermining our
15 health, prosperity, and property, literally.
16 Development cannot create a river, but it can destroy
17 one.

18 As an architect practicing for more than 25
19 years, I've seen many changes in development and
20 construction practices. Sound site design and planning
21 are critical to a successful project. The techniques

1 of environmental site design have been shown to protect
2 aquatic resources, produce healthy and inviting living
3 environments, and create new employment opportunities.

4 I began following LID and environmental site
5 design in its early years, and have been relieved and
6 encouraged to see it evolve from experiments and
7 demonstrations to an integral feature in some of the
8 most admired and imitated projects by prominent design
9 professionals. The early ESD projects were planned and
10 executed in our county, the bulk of professional
11 publications presenting LID and ESD research projects
12 conducted here. Specifically, the green street
13 constructed in Edmonston, thank you, and research
14 conducted by Dr. Allen Davis at University of Maryland.
15 It is an embarrassment that ESD is not standard
16 practice here. Sorry. A little strong language here
17 too.

18 Our new permit like those proposed for
19 Baltimore City and current in Montgomery County must
20 ensure that our county is developing using ESD
21 techniques. The county must be clear about its own

1 programs for limiting discharge using green and not
2 gray infrastructure. We endorse the specific
3 recommendations of an attached document, which I'm not
4 going to read.

5 Time is running out for Marylanders. We have
6 a commitment to meet. This permit must create a
7 blueprint for achieving our goals by maintaining water
8 quality milestones. It must provide for extensive
9 monitoring of our aquatic resources to ensure the
10 milestones will be met. Token gestures will not do.
11 We cannot afford the cost of poorly regulated
12 development. We also ask that stream bank loss be
13 added to monitoring. Accumulation of sandbars in the
14 river is pretty -- I mean, you take a boat ride with me
15 and, you know, we'll try to avoid the sandbars that are
16 there.

17 Finally, we must recognize that maintaining
18 our investment is essential. A well-trained work force
19 and clear maintenance programs written into the
20 department will achieve this. With a strong MS4 permit
21 an equitable pollution reduction fund and a wide

1 reaching incentive program, Prince Georgians will have
2 the tools we need to build and rebuild our county as it
3 should be. We've offered to continue to provide our
4 assistance in achieving these common goals, you know,
5 through our volunteer activities. Thanks a lot.

6 MR. BAHR: Great. Thank you, Ms. Dombroski.
7 Next up is Dan Smith, please.

8 MR. SMITH: Thank you, and good morning. I
9 am Dan Smith, D-A-N S-M-I-T-H. And I'm president of
10 Friends of Lower Beaver Dam Creek. It's a sub-
11 watershed that is wholly within the beltway in Prince
12 George's County, from the area about the New Carrollton
13 Metro to Fed Ex Field, to the Cheverly Metro, and in it
14 about New York Avenue.

15 This new permit is critically important to
16 set enforceable guidelines and clear expectations and
17 goals for reducing stormwater pollution in our county.
18 Far too many of our neighbors are unaware of or choose
19 to deny the serious public health, economic
20 development, and quality of life problems in our
21 communities that are directly and indirectly caused by

1 stormwater pollution. These problems are very real and
2 apparent in the inner beltway communities of Prince
3 George's County for streams, such as Lower Beaver Dam
4 Creek, Cabin Branch, Quincy Run. These streams are in
5 fact primary components of our stormwater system.

6 Those of us who live in these communities
7 have been without healthy streams and waterways for far
8 too long. We want our streams back. We want the
9 healthy rivers that the Clean Water Act promises. We
10 want to wade in these waters without getting sick. We
11 want to rebuild our communities in balance with nature.
12 This permit is the legal basis for this restoration and
13 rebuilding. It is that important.

14 We are highly encouraged by the serious
15 efforts of our county environmental and political
16 leaders that they are giving this permit and related
17 program such attention. We are thrilled that they see
18 this is about more than just following a process, but
19 it's about healthy streams, it's about communities,
20 it's about residents, it's about equity, and it's about
21 communities at risk. We now seem to have the political

1 will in some very important places to work on these
2 problems comprehensively. But to do that we need help.
3 And this permit, we need a foundation that's legal, and
4 the guidance that's legal to present this and build
5 this foundation to then unleash the creativity and the
6 resources that the county and all collaborative
7 partners can bring to this. So that's where we are.
8 This could be the platform that then the creativity and
9 the will from many of those represented in this room
10 and elsewhere can then bring to achieve this.

11 The proposed permit will not ensure that our
12 county waters will support safe fishing, swimming, or
13 healthy populations of fish and other aquatic wildlife.
14 So I would just echo many of these specifics that
15 others have already reiterated today. Please be clear
16 in the permit that county programs for limiting
17 discharges be clearly designed to meet water quality
18 standards. In addition to milestones for clean up
19 activities, include enforceable interim milestones for
20 water quality standards.

21 The permit requires water quality monitoring

1 in only one creek. So how will we know whether the
2 restoration is truly working throughout the
3 jurisdiction where conditions vary so widely. We need
4 scientifically valid, understandable, and effective
5 monitoring requirements. The permit needs to do a much
6 better job ensuring proper maintenance of stormwater
7 controls. The draft Baltimore City permit and current
8 Montgomery County permit contain ESD code change
9 mandates and deadlines. This permit also should
10 mandate those changes and include explicit and
11 enforceable deadlines for them.

12 And finally, and maybe most important, the
13 permit needs to require that the stormwater retrofits
14 be green. That's using low-impact development
15 techniques which science finds is needed to protect or
16 streams from the hydrological changes and severe
17 erosion which is destroying them. Green infrastructure
18 will also result in many other benefits for community
19 and public health. It will take a large and
20 collaborative effort to restore our streams, to clean
21 our waters and rebuild our communities with nature, and

1 to once again make Prince George's County the leader in
2 green infrastructure and low impact development. It
3 will take new skills, require thousands of new jobs and
4 additional regulatory funding strategies. Fortunately,
5 the efforts to make this happen are underway, but will
6 not succeed without a strong, smart, and effective MS4
7 permit. Thanks.

8 MR. BAHR: Thank you, Mr. Smith. And last up
9 we have Josh Tulkin, please.

10 MR. TULKIN: Good afternoon.

11 MR. BAHR: Good afternoon.

12 MR. TULKIN: Can you hear me okay?

13 MR. BAHR: Yes. Good morning.

14 MR. TULKIN: My name is Joshua Tulkin, T-U-L-
15 K-I-N. I'm the executive director of the Maryland
16 Sierra Club, and I'll be testifying today on behalf of
17 our 30,000 supporters in the State of Maryland, and
18 roughly 6,000 supporters in Prince George's County.

19 I've been testifying on a range of issues in
20 the last couple months and couple years. State
21 legislation on the stormwater and septics, stormwater

1 utility fees, MS4 permits the county for growth
2 regulations, and it's interesting how each of them
3 becomes somewhat siloed. And I always like to remind
4 myself when coming into the hearings that we have two
5 major reasons that we're here today.

6 The first is, as many people have stated, the
7 protection of the Chesapeake Bay and all of its rivers
8 and streams. And many of the co-benefits of policies
9 that reduce stormwater runoff or policies that reduce
10 septic solution. But we're also here because we're
11 legally required to, because 35 years of collaborative
12 and cooperative programs have not been sufficient to
13 make the improvements in the bay that we need to. The
14 creation of the TMDL, or as we're now calling it the
15 pollution diet because it sounds better, ultimately is
16 created our legal framework in which the states are now
17 required to meet certain targets and through
18 legislation some of those targets are being passed onto
19 counties. So I think this is really where the rubber
20 is beginning to hit the road, and it's also where I
21 think we're beginning to see that this is no longer a

1 question of if, if we're going to make these
2 improvements; it's a question of when we're going to
3 make them. And it would delay how much it's ultimately
4 going to cost and who it's going to cost.

5 So today we're going to make a set of
6 recommendations that to me could be interpreted as
7 saying, let's make this project more expensive, more
8 rigorous. But from our point of view what we're doing
9 is, let's actually task the right policy now so that
10 we're not going through penalty proceedings, and
11 lawsuits, and passing more money onto everyday citizens
12 five, ten, 15 years from now. I would love to, 10
13 years from now simply be talking about how wonderful
14 this program works.

15 We really appreciate the sentiment to be
16 working with public organizations. And I think that
17 has become clear through processes like these that your
18 department has been approaching. And we appreciate
19 that. However, despite some of the improvements to the
20 draft, we do still have some specific recommendations.
21 Mostly on the questions of measurement enforcement.

1 First, we believe that the language contain a
2 local water quality in the permit. The permit must
3 prohibit non-authorized discharges. We need to
4 specifically state that, and that be part of our legal
5 framework. Secondly, the permit require public
6 participation in the county stormwater management. I
7 think this is not just the strategy about hearing
8 public input, it's a best management practice. We were
9 touring several facilities in Baltimore yesterday and
10 we saw not just a level of public participation that
11 was inspiring, we also heard many stories about how
12 collaborative public processes have brought down costs
13 doing environmental retrofits. So I think that looking
14 in advance that this is going to be a five, 10 year
15 process, the more we build public participation into it
16 the more we're going to be finding that we're going to
17 be sharing the cost with other people because they will
18 have an interest or a stake in individual projects.

19 Three, the permit must require a robust
20 monitoring program. We know from the start that one of
21 the challenge of the MS4 permit is we're always talking

1 about how much we reduce, but we're not actually
2 totally certain exactly what we're starting from.
3 Robust monitoring is going to be the best way for us to
4 move forward on understanding exactly how the best
5 management practices are impacting stormwater runoff
6 and water quality, what's working, what's not, where we
7 need to focus in the future.

8 Four, I'm going to echo the call for
9 environmental site design practices. Enough has been
10 said about that. So we'll just add our name to that
11 comment.

12 Five, the permit must include enforceable
13 milestones and benchmarks. I think that the State made
14 a really smart move in establishing two-year milestones
15 through this MDL process that allows us to actually
16 measure progress. And it's done two things. It's
17 provided us a sense of where we're going, and it's also
18 forced us to ask what we're able to measure and what
19 we're not able to measure. I think milestones are a
20 critical way to ensure that we're measuring the key
21 points and also that we're reporting out to the public

1 so when you're asking for that level of investment and
2 public participation you're also able to share
3 information back out with people on what's working and
4 what's not working.

5 Lastly, we're looking for the permit to
6 include the requirement for an on-going inspection and
7 assessment process. I think that the more we build
8 into that, the less it will be in organic process of
9 when are we going to inspect and having people weighing
10 in to ask individual entities to inspect different
11 facilities. I think that we understand that inspecting
12 a hundred percent of all facilities at all times,
13 multiple times a year, is financially infeasible. So
14 rather than sort of having a race to where we can get
15 the most resources from the department, pick out this
16 or pick out that, we should be proactive and talk about
17 what the plans for inspecting and maintaining the
18 practices is going to be.

19 Lastly, I just want to say, on behalf of the
20 Maryland Sierra Club this has become an increasing
21 priority for us. We're pleased to be able to work with

1 MDE, and NDR, and DER and all the agencies. And we
2 have a lot of volunteer resources and expertise across
3 the board that we're excited to lend to this process.
4 The one thing we always ask is, we're fighting against
5 what one of my volunteers joked as Chesapeake Bay
6 fatigue. The fatigue of a program where we're going
7 after the public and telling them every year that we've
8 got a problem, engaging them in fighting it, and then
9 telling them we solved it, until we go back to the
10 following year and fundraise and get them out to you.
11 There's a call for just authenticity. And we're
12 looking to be able to come after people and say, this
13 is something that we really have to fight for. This is
14 the right policy. We want to be able to mobilize those
15 30,000 people to help implement it, enforce it, to help
16 make it cheaper, and we're asking you to give us a
17 permit that we could go out there and fight for.

18 Thank you for your time.

19 MR. BAHR: Great. Thank you, Mr. Tulkin. Is
20 there anybody else that would like to speak today?

21 (No response.)

1 MR. BAHR: Okay. Just a few notes on where
2 we go from here. As I mentioned, it seems like a lot
3 of people are writing their testimony and finalizing
4 that. And that can be sent to the Department. It can
5 be sent to me, Mr. Raymond Bahr, Maryland Department of
6 Environment, Water Management Administration, Sediment
7 Stormwater and Dam Safety Program, 1800 Washington
8 Boulevard, Suite 440, Baltimore, Maryland 21230-1708,
9 or you can email me at rbahr@mde.state.md.us. You can
10 also go up on our web page to get this information of
11 where to submit.

12 After the comment period closes on June 27,
13 2013, MDE will develop a response to comments document
14 that will support a final determination to issue Prince
15 George's County an MS4 permit. Anyone who signed up on
16 our attendance sheet today or spoke will be on MDE's
17 interested party list for Prince George's County and
18 you will be keep apprised of all permit actions via
19 email announcements. I would like to thank everyone
20 for attending today's public hearing and for your
21 participation in these important matters.

C O N T E N T S

<u>SPEAKER</u>	<u>ORGANIZATION</u>	<u>PAGE</u>
ADAM ORTIZ	PRINCE GEORGE'S COUNTY	8
LARRY COFFMAN	PRINCE GEORGE'S COUNTY	10
DANA MINERVA	AWRP	12
REBECCA HAMMER	NRDC	16
LAURA CHAMBERLIN	ALICE FERGUSON FOUNDATION	22
CHRIS YODER	MARYLAND SIERRA CLUB	26
JENNIFER CHAVEZ	EARTH JUSTICE	30
JIM FOSTER	AWS	35
ANDREW FELLOWS	CLEAN WATER ACTION	41
DAN SMITH	FRIENDS OF LOWER BEAVER DAM CREEK	61
JOSHUA TULKIN	MARYLAND SIERRA CLUB	65

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