

In the Matter of:

Maryland Department of the Environment

February 26, 2015
Public Hearing

Condensed Transcript with Word Index



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1 MARYLAND DEPARTMENT OF THE ENVIRONMENT

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5 PUBLIC HEARING

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7 MARYLAND'S STORMWATER MANAGEMENT PROGRAM

8

9 ISSUANCE OF MS4 PERMIT TO SHA

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12 FEBRUARY 26, 2015

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14 5:00 p.m.

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17 MDE HEADQUARTERS

18 1800 WASHINGTON BOULEVARD

19 BALTIMORE, MARYLAND, 21230

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21

22 Reported by: William Alan Bodenstein

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1 A T T E N D E E S

2

3 Mr. Raymond Bahr, MDE

4 Mr. Brian Clevenger, MDE

5 Ms. Christina Lyerly, MDE

6 Ms. Michelle Arthur, MDE

7 Ms. Sonal Sanghavi, SHA

8 Ms. Karen Coffman, SHA

9 Mr. Rob Shreve, SHA

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1 P R O C E E D I N G S

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3 MR. BAHR: Today is Thursday, February 26, 2015,

4 and it is approximately 5 p.m. Today's public hearing is

5 regarding the Maryland Department of the Environment's

6 tentative determination to issue Maryland State Highway

7 Administration a National Pollutant Discharge Elimination

8 System, municipal separate storm system permit.

9 My name is Raymond Bahr and I'm the Program

10 Review Division Chief of the Sediment, Stormwater and Dam

11 Safety Program within the MDE's Water Management

12 Administration (WMA). With me tonight is Brian Clevenger, my

13 boss, and Program Manager for Sediment, Stormwater and Dam

14 Safety.

15 Also here is Christina Lyerly and Michelle

16 Arthur who are Natural Resource Planners within my division.

17 We also have SHA represented here, Sonal Sanghavi, Karen

18 Coffman, and Rob Shreve.

19 Thank you all. And thanks to everybody at

20 MDE. Stewart Comstock was in here a little bit earlier, and

21 thanks to everybody who helped to set up these proceedings

22 this evening.

4

1 In accordance with Maryland's Administrative

2 Procedures Act, a tentative determination to issue SHA an MS4

3 permit has been advertised in the Baltimore Sun on Friday,

4 December 26, 2014 and again on Friday, January 2, 2015.

5 Additionally, the tentative determination

6 notice was sent out to MDE's interested parties list for SHA

7 and publicized on MDE's web page where the draft permit and

8 supporting fact sheet material can be found.

9 Anyone who signed the attendance sheet or to

10 speak today will receive notice of any permit actions

11 regarding SHA's permit. If you want to be on MDE's

12 interested parties list for this permit, and did not sign up

13 on the attendance sheet, please do so before you leave today.

14 I have some prepared remarks that I would like

15 to read into the record and after that I would like to give

16 SHA, the permittee, an opportunity to comment, and then any

17 local or State elected officials that desire to speak. After

18 that we will work our way chronologically down the list of

19 speakers that have signed up to give testimony today.

20 Today's hearing is scheduled for two hours and

21 I was going to say we'd like to keep all of the remarks

22 concise, but since it looks like we're only going to have

5

1 maybe one or two people speaking today, please take your time
2 with your comments. Sometimes we have dozens of people and
3 we try to ask people to keep their comments concise and to
4 the point and on the permit.

5 We would ask that you do that, but you can have
6 some extra time tonight, since you're the only speaker so
7 far. So with that, I'm going to go ahead and read these
8 prepared remarks.

9 The purpose of today's hearing is to accept
10 public comment on MDE's Tentative Determination to Issue SHA
11 a Municipal Separate Storm Sewer System MS4 permit. This
12 hearing is being held to honor a request submitted on
13 December 30, 2014 from Marian Dombroski, and again on January
14 5, 2015 from Bruce Gilmore, who represents the Maryland
15 Stormwater Consortium. This hearing allows MDE to meet its
16 obligations under Maryland's Administrative Procedures Act.

17 For background, Maryland has been delegated
18 authority by the United States Environmental Protection
19 Agency (EPA), to administer the National Pollutant Discharge
20 Elimination System (NPDES) Program for the state.

21 Final stormwater regulations were adopted by
22 EPA in November 1990 according to Section 402(p) of the Clean

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1 entered the room at approximately 5:14. Welcome, Bruce.
2 MR. GILMORE: My pleasure to be here. First of
3 all, I live in Baltimore, but coming from southeast Baltimore
4 to southwest Baltimore can sometimes be an adventure.

5 MR. BAHR: Please let the record show that today it
6 did snow and it is rush hour, so Bruce, it's okay that you're
7 a little bit late, Bruce.

8 So we were just in the middle of doing some
9 background here, so I will continue. SHA's permit was
10 reissued on October 25, 2005. Under this reissued permit,
11 additional requirements were included for assessing water
12 quality across the state's road network and implementing 25
13 significant stormwater restoration projects from pervious
14 areas that were not already managed to the maximum extent
15 practicable.

16 MPDES permits last for five years and a
17 reapplication was required to be submitted as part of SHA's
18 fourth year annual report. SHA submitted its fourth year
19 annual report on October 25, 2009. Since that time, MDE has
20 had numerous meetings.

21 We've had many conversations with individual
22 citizens, environmental advocates, the EPA, and other local

6

1 Water Act. These regulations require in part, that owners of
2 storm drain systems serving populations greater than 100,000
3 apply for a Phase I NPDES, Municipal Stormwater permit.

4 Based on the 1990 census of urban jurisdictions
5 in the Baltimore and Washington Metropolitan area that the
6 states road network traverses, MDE designated SHA as a Phase
7 I MS4 entity.

8 SHA then submitted a two-year, two-part
9 application to MDE and was issued an initial MS4 permit on
10 January 8, 1999. SHA's first permit laid the foundation for
11 a comprehensive approach to control runoff.

12 This was done by establishing the necessary
13 legal authority, mapping, Storm Drain System Infrastructure,
14 identifying sources of pollution, monitoring some of those to
15 characterize urban runoff, enhancing existing erosion and
16 sediment control and stormwater management programs and
17 establishing new programs for providing education and
18 eliminating illegal storm drain system discharges.

19 This permit was reissued on October 25, 2005.
20 I think we may have another participant. Sorry about that. I
21 heard the door behind me rattling. And it's Mr. Bruce
22 Gilmore. Let the record show that Mr. Bruce Gilmore has

8

1 and state government officials, including SHA, that are
2 affected by the MS4 Permit Program.

3 The result of these meetings and conversations
4 is a draft permit that we take up today. Yet more conditions
5 have been added to this version of SHA's stormwater permit
6 largely based on EPA-approved total maximum daily loads,
7 TMDL's from permits to local water bodies and for nutrients
8 in sediment of the Chesapeake Bay.

9 The most significant permit condition is for
10 the 20 percent restoration of impervious areas that have
11 little or no stormwater controls within the five-year permit
12 term.

13 These and all other remaining permit
14 conditions have been developed for abating the discharge of
15 pollutants from SHA's storm drain system and working toward
16 media states, receiving a lot of quality criteria.

17 Now I would like to ask if anyone from SHA
18 would like to add comments to the record at this point?

19 FEMALE VOICE: No comment.

20 MR. BAHR: Okay. Are there any local or
21 state-elected officials that would like to speak before we
22 get started with the rest of the public testimony?

9

1 (No response.)
 2 MR. BAHR: No? Okay. Reading down the list
 3 here, it seems as if Marian Dombroski has signed up. She's
 4 the first one.
 5 Bruce, would you like to speak this evening as
 6 well?
 7 MR. GILMORE: Yes.
 8 MR. BAHR: Okay. So you can go after Marian.
 9 Can I ask that you state your name, and then you spell out
 10 your name for the reporter today, and then give your remarks.
 11 Thank you.
 12 COURT REPORTER: When you come to the
 13 microphone, give us your first and last name, and spell it,
 14 please.
 15 MS. DOMBROSKI: My name is Marian Dombroski.
 16 M-A-R-I-A-N D-O-M-B-R-O-S-K-I.
 17 COURT REPORTER: Thank you.
 18 MS. DOMBROSKI: I'm a 30-year resident of the
 19 State of Maryland. I live in Council District 5, which to my
 20 understanding is it's SHA District 3. I'm the Vice Chair for
 21 Prince George's County for the Anacostia Watershed, Citizens'
 22 Advisory Committee.

10

1 I am also a founding member of Friends of Lower
 2 Beaverdam and Friends of Quincy Run. These are small
 3 watersheds that they have a direct confluence at the
 4 Anacostia. So I'm one of our many citizens doing our part to
 5 restore the health of our local streams, the Anacostia River,
 6 and the Bay.
 7 We value our natural resources and support
 8 sustainable development practices for health, recreation,
 9 scenic and economic benefits to the community. Clean water
 10 is one of the greatest challenges of this century. We
 11 believe it is our responsibility to do all that we can to
 12 achieve it.
 13 The Clean Water Act was passed over 40 years
 14 ago. I was 18 years old. Did my first river cleanup two
 15 years before the Clean Water Act was passed. It's been a
 16 long wait.
 17 Many communities across the country ave made
 18 great strides towards achieving clean water. Boston and
 19 Denver, to name just two, have made their rivers swimmable.
 20 I hope we will soon do the same for ours.
 21 Thanks for the opportunity to speak at this
 22 hearing and provide input into this MS4 Permit which has the

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1 potential of having a very positive impact on the health of
 2 my community and of our state.
 3 Living in an urban area, as I do, I see every
 4 day the impacts of our roadways and supporting
 5 infrastructure. My neighborhood is bound by the Baltimore-
 6 Washington Parkway (built the year I was born), Route 50, and
 7 Route 202, right in the middle, Ground Zero.
 8 The construction of these roadways drastically
 9 altered the hydrology of this corner of the Anacostia
 10 Watershed, and it's just one mile from the River.
 11 This permit is important to me on a very
 12 personal level. The condition of the two streams closest to
 13 me is tragic. In fact, Lower Beaverdam Creek has been
 14 identified as one of the most degraded in the Anacostia
 15 Watershed.
 16 I am happy to see many improvements over the
 17 last permit, and look forward to changes to our waterways
 18 that, I hope, will be for the better. I tried to organize my
 19 comments, more or less how the permit reads but I'm not
 20 making any promises.
 21 Probably the most physically evident
 22 challenge to clean water in my area is the lack of

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1 coordination efforts. This was recognized in the permit. I
 2 hope more consideration will be given to this critical issue.
 3
 4 Several agencies in my county issued an MOU
 5 this summer that aimed at facilitating permitting and
 6 declaring Prince George's County as Open for Business. Sadly
 7 excluded from this group was our Department of the
 8 Environment. I hope a similar interagency effort can be
 9 conducted for our Clean Water Program. We need to move
 10 forward for the Bay - together.
 11 I just went to a partners meeting yesterday
 12 for a big project that's being done in Bladensburg, and the
 13 contractor reported that if he hadn't been on the previous
 14 contract, he would have been doing a connection to an
 15 abandoned water pipe that had just been installed, a month
 16 before by WSSC.
 17 I mean it's hard. And I can understand the
 18 complexity but we're just getting our stuff together.
 19 So these are some of my specific concerns: If
 20 you could ID the state infrastructure - as you go, that would
 21 be really helpful to know. We've been putting little
 22 stickers on the storm drains, letting people know that the

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1 water goes to the Bay. If you could identify the pipes and
2 tell us where the water is coming from to the Bay, that would
3 be very helpful.

4 Also if you could post signage similar to the
5 Planning Board notification. People are used to seeing that
6 when something is going on. They'll see an orange sign with
7 a date and phone number, so they can find out about it, and
8 people really do care. We're impacted really personally.
9 And we do actually have a lot of knowledge of the
10 communities, the community leaders, the conditions of the
11 watershed, and we don't want to call and complain. We just
12 want to help. And when a project is in progress, I know most
13 of them have a sign identifying the project. But a lot of
14 them don't also and people just know that the streets, if
15 they understood that it was part of a really positive project
16 I think there would be a lot more cooperation.

17 In the permit it talks about water restoration
18 area, I think it would be really great if the SHA standard
19 details could be revisited and include some of the most
20 effective rainstorm water management techniques.

21 A lot of the projects, the same old details are
22 being used and then we have to sort of go around our elbow to

14

1 get to our thumb to try and retrofit them.

2 The part about the stormwater system, oh yeah, this
3 blew me away. That Districts 1, 2 and 6 are being excluded.
4 I mean I understand they don't have that many people. They
5 will, and they need good roadway details as much as anyone
6 else does.

7 Also, since your Districts are sort of an
8 internal thing, I guess if we plow through the website, we
9 could figure out which State Highway Districts we're in.

10 But in the permit, it would be nice if we could
11 see what the districts were, so people could understand.

12 More and more people are becoming aware that,
13 as you know, the normal person doesn't know that any of these
14 programs are going on, but little by little, the word is
15 spreading and people do actually look. Especially your
16 permit is short and easy to read. People look at them and
17 use them and it would be great to make it a little more
18 usable.

19 And also, if you could revisit the major
20 projects that are in the pipeline. It's so frustrating. I
21 follow a lot of development and redevelopment. There's so
22 much going on in my county. I go to a lot of hearings, spend

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1 a lot of time looking at these plans, and it's so frustrating
2 to see a project installed that the day it's installed it
3 needs to be retrofit.

4 So I know there's a lot of projects in the
5 pipeline. I know you guys are under a lot of pressure to
6 deliver them. But the big projects, I mean if they're under
7 the old regulations, we're just creating more problems.

8 The permit requirements, it says show a
9 reduction of pollutants. If we're going to do that, more
10 waterways, at least one per watershed has to be monitored to
11 make this determination. Conditions in Montgomery County are
12 not the same as those in Prince George's County and Carroll
13 County, and any of the other counties. We all have our own
14 problems.

15 Our watershed drained directly into the
16 Anacostia. If you fix one and don't fix another, it's like
17 restoring one window in a building and it doesn't make the
18 comfort any better. Anyway, the challenge is, let's start
19 monitoring Lower Beaver Dam Creek. That's the worst in the
20 watershed. Hopefully we'd see some improvements there.

21 I would just want to stress. There are a lot
22 of groups that are doing monitoring that are counting trash,

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1 that are collecting trash and we don't have to reinvent the
2 wheel. That information is out there and if you or EPA or
3 someone could be kind of a clearing house, I think it would
4 save us all a lot of time and money.

5 I was really happy to see that they're
6 planning to do 2.7" and plan to use woods in good condition
7 as a standard. We don't have a lot of woods in good
8 condition in my part of the watershed and it would be great
9 to have some after some of your projects are done.
10 Litter and Floatables. It says evaluate current problems and
11 develop public outreach and education. A lot of people are
12 working on this. It's really frustrating to see so much
13 money being spent on education projects over and over again.

14 We really need - I mean it's beyond that. It's
15 been over 40 years. We need action. We need money being
16 spent on things that actually have results. And the
17 education comes along with the completion of the projects.

18 I do a lot of small watershed projects in my
19 watershed with regular people, and you do a little bit of
20 permeable paving and they get it. They don't have to have a
21 lot of flyers and stuff. I mean the trash in the Prince
22 George's County MS4 permit, the volunteer groups are a major

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1 part of their credit towards the trash can beyond.
 2 Give us some help. I take kids down into some
 3 of these streams that it's dangerous. And if we had a little
 4 bit of support rather than a lot of pamphlets and all. We
 5 try to get people to pick up some of the large, the bulk
 6 trash. Some of the stream banks are so steep and so
 7 dangerous that I don't feel comfortable taking people down
 8 there unless we have a number of adults.
 9 Things like that would be a real education.
 10 When you see your local fire guys, when you see your local
 11 police guys, your Boys and Girls Club guys down there helping
 12 the kids. It makes a huge impression.
 13 Okay. Watershed Assessments. There's a need
 14 for more detail in the public participation. I hate to be
 15 ragging here, but the announcement for this meeting, not
 16 everybody in this state reads the Baltimore paper. Anyway,
 17 if we could maybe try to get the word out a little bit to
 18 reach a larger audience.
 19 Anyway, if you could put in some more details
 20 about how the public can participate, if you could include
 21 that in the permit, that would help us a lot.
 22 Also, there wasn't any mention of the

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1 restoration plan, but I know a lot of the candidate projects
 2 there, so I think there's over 300 at the Lower Beaver Dam
 3 Creek Watershed alone. A lot of those are adjacent to SHA
 4 property. It would be great if we could knock some of those
 5 out. It's part of the work that SHA is doing. The projects
 6 have already been identified. Some of them have price tags
 7 on them. Admittedly they're five years old.
 8 But anyway, that would be really great. A lot
 9 of us are looking at those plans and trying to get the ball
 10 rolling. If you could distribute the protocol for assessment
 11 and monitoring included in the permit. Something. There's a
 12 lot of information out there and it would be good for
 13 everybody to be able to use the same methods.
 14 Also, we need to have access to your results
 15 too. It says that, you probably have the same intention, but
 16 it says the success of the iterations will be driven by
 17 assuring maintenance of water quality standard. We don't
 18 want to maintain the standard. We want to improve the
 19 standard.
 20 And then transparency. It's got to be a
 21 priority. This is something that we're having a really hard
 22 time with the County. We have no idea what the criterion for

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1 project selection is. We have a project we applied for a
 2 year and a half ago, just after the rebate program was
 3 passed. We have seen other projects being done. For some
 4 reason, our project isn't happening.
 5 So if we know that the rules are, it makes us
 6 feel a little bit better. It gives us a little more
 7 confidence in the program, and defines a really clear path
 8 for public participation. Too many times projects are
 9 developed without any notification or input from the
 10 community. We pay for the project and we live with the
 11 results. We're really trying for the same goals. So please
 12 make us partners.
 13 I hate to jab at you because I know the SHA is
 14 a really big organization and it's really apparent that you
 15 guys are putting a lot of thought and care into this program,
 16 but my personal experiences with the State Highway have been
 17 horrible.
 18 Any time there's land adjacent to one of our
 19 projects identified as State Highway's, everyone just takes a
 20 big gulp because it's just such a difficult organization to
 21 negotiate.
 22 But we asked a year and a half, every three or

20

1 four months, we asked about the ownership of a bridge. We
 2 just wanted to paint the bridge. A year and a half and
 3 finally they came back and said that they weren't sure who
 4 owned it. I won't go into all of it here. Anyway, we've got
 5 to know how to work with you all.
 6 Any of the partner meetings we've ever been
 7 invited to, the project is already designed, and we're just
 8 told that this is what's going to happen and who to call if
 9 there's some kind of problem. And it's really frustrating,
 10 like it's not getting the problems in our area.
 11 The most recent plans I reviewed has a sidewalk
 12 ending in the middle of nowhere. If people walk down that
 13 sidewalk they're going to be walking into an extremely busy
 14 street with no other infrastructure. I mean, these are
 15 things that people in the community know, but for some reason
 16 it was overlooked in the plan.
 17 Bruce is a better person than I to tell you
 18 about all the ways that you can cooperate with communities.
 19 But anyway, thanks a lot. I'm sorry I probably look so sad.
 20 Thanks a lot.
 21 MR. BAHR: Thank you, Ms. Dombroski. Those
 22 comments were very good. Mr. Bruce Gilmore, would you like

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1 to speak this evening?
 2 MR. GILMORE: Thank you. My name is Bruce,
 3 B-R-U-C-E. Gilmore, G-I-L-M-O-R-E. I'm a Stormwater
 4 Consultant for a series of advocacy groups in Maryland,
 5 principally the Anacostia Watershed Society, but I also am
 6 Head Coordinator of the Maryland Stormwater Consortium and
 7 the Maryland Stormwater Consortium has been since 2005, an
 8 advocacy for strong MS4 permits and their strong
 9 implementation.
 10 This is the last permit which will be issued
 11 under the current cycle. It is remarkably similar to the
 12 permits for the jurisdictional permittees. So much of what
 13 I'm going to say tonight I've said in any number of other
 14 forums with respect to the content of the permit and how it
 15 should be strengthened.
 16 We are not going to back down from our view
 17 that the permit should be stronger. In fact, unfortunately,
 18 as some of the permittees, namely Baltimore City, Baltimore
 19 County, Anne Arundel County and Prince George's County, who
 20 have received their permits, they have begun the
 21 implementation effort.
 22 Their first effort is to put in place what are

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1 called the Waste Load Allocation, WLA, restoration plans.
 2 As we have looked at those plans for
 3 specifically two of the jurisdictions, namely Baltimore City
 4 and some aspects of the plans for Prince George's County,
 5 there is a great need for improvement. And our concern is
 6 that the permit with respect to those restoration plans, is a
 7 little vague and allows a little too much flexibility and
 8 doesn't give enough guidance, doesn't hold the permittee to
 9 some specific deadlines and milestones to achieve the WLA.
 10 The achievement of the Waste Load Allocation
 11 is central to meeting the TMDL, the Stormwater TMDL's and the
 12 total TMDL's for the Bay, for more regional impaired streams.
 13 And therefore, what I say today may be familiar to MDE, but
 14 we're going to continue to say it until we see some better
 15 results.
 16 First, let me talk about public participation,
 17 and we believe that public participation has to be rather
 18 specific. It has to be more of a specific organizational
 19 accomplishment so that people get a sense that their input to
 20 both the permit preparation and the permit issuance process
 21 and more importantly, its implementation process, is more
 22 transparent, open, and they can contribute much more to

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1 actual information, and actual problem solving for the local
 2 permittees who must implement these permits.
 3 Maybe public participation for MDE is not as
 4 significant, but as you get down to the lower county level,
 5 the knowledge basis for the County agencies is such that they
 6 need as much input from watershed groups and other
 7 stakeholders to describe the nature of the impairment, the
 8 nature of where projects should be located, the nature of
 9 what specific abatement is necessary to achieve the Waste
 10 Load Allocation.
 11 And Marian touched on this, and she is a prime
 12 example in her two watersheds. She could take the folks from
 13 Prince George's County out to these locations and show them
 14 where the specific problems are, where the causes of
 15 stormwater influx come into her watersheds, and how or where
 16 projects should be located to abate that.
 17 So that's an area that I think is cause for a
 18 lot greater attention. We also would like to point out that
 19 there's been the influence of rule making in Maryland in
 20 terms of erosion and sediment control in this permit. This
 21 permit requires that there be a sufficient erosion and
 22 sediment control program.

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1 What does sufficient mean? In this respect, I
 2 participated in a project with about 60 other colleagues this
 3 summer in which we went through projects, construction
 4 projects, which were in the beginning stages in the Central
 5 Maryland counties and Baltimore City.
 6 The protocol that we used was developed by
 7 Richard Klein and the Community and Environmental Defense
 8 Services. Essentially that protocol was to identify projects
 9 that were beginning, to notify the local erosion and sediment
 10 control entities that we were going to be looking at the
 11 projects. And then to say to them we were going to make a
 12 report about the projects, but we'd further come back and
 13 essentially we would be available to both the contractor and
 14 to the local county erosion and sediment control entity, and
 15 to MDE, if they're interested.
 16 And Richard in a meeting with several folks
 17 here and then shared the results. Essentially his project
 18 was called, I get my initials confused. But what we looked
 19 at was, we didn't want to make a big deal about encroaching
 20 on the project boundary.
 21 We wanted citizens literally to be able to sit
 22 in their cars and look at a project and say how much

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1 stabilization of open disturbed earth has there been.
 2 Because stabilization gives you the highest rate of stopping
 3 erosion.
 4 And so my view is that part of public
 5 participation should be that this project be used by citizens
 6 and by the local counties to judge how well their projects
 7 are being monitored and how successful they are in achieving
 8 100 percent of abatement of erosion from a lack of surplus
 9 stabilization.
 10 Now I'd like to turn to more detail about the
 11 Waste Load Allocation restoration plans. First, the final
 12 Stormwater Waste Load allocation attainment dates should be
 13 set as the soonest possible date, and shall be consistent
 14 with the deadlines associated with the Chesapeake Bay TMDL,
 15 and ultimate erosion implementation plans.
 16 So you have a complete circle of the
 17 requirement. Your WIP, your TMDL, and the permit are all
 18 together in terms of when the Waste Load Allocation should be
 19 met. Benchmarks should be used to specify annual pollutant
 20 load reduction and be used to assess progress toward
 21 attainment of milestones and ultimate waste load allocations.
 22 Interim milestones should be expressed as a

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1 pollutant load reduction with associated deadlines for
 2 attainment to be enforceable upon incorporation into the
 3 permit and will be included where final attainment of
 4 Stormwater WLA's requires more than five years.
 5 There should be no guessing at the end of this
 6 permit term for State Highway Administration as to whether or
 7 not the WLA's they are to achieve are going to be met. The
 8 only way that you know they're going to be met is if you set
 9 up the milestones and the benchmarks.
 10 So as we go forward, we look at year two or
 11 year three of this permit, and say where is State Highway
 12 Administration in the goal for meeting the Waste Load
 13 Allocation? And not only making progress, but are they
 14 meeting the numerical benchmarks and milestones so that it is
 15 truth to power. It's they're going to make it or they
 16 aren't.
 17 And if they aren't, you'll inquire as to why
 18 they aren't. And you make them adjust their programs and the
 19 projects that they have so that they'll meet the Waste Load
 20 Allocation.
 21 The Waste Load Allocation was the backbone of
 22 this permit and this permit is the backbone of reducing

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1 stormwater pollution which is the rising cause of pollution
 2 in terms of impairing the Bay and all riverways.
 3 We also should have a more apparent
 4 assessment, quantitative assessment, of State Highway
 5 Administration's current pollutant loadings, so that
 6 essentially when source identification information is
 7 produced, the assessment or current loadings shall serve as
 8 the basis from which the pollutant load reductions are to be
 9 made. That sounds like a mouthful.
 10 But basically we believe that those should be
 11 set. They should be understood by everyone that looks at
 12 them. They should be apparent as to whether the base load
 13 and the difference between the base load and the reduction to
 14 meet the waste load allocation is necessary.
 15 And let me say that this is a real situation.
 16 First of all, one of the problems we found in our analysis of
 17 the restoration plant over in Prince George's County, is that
 18 they were trying to have moveable, what we call moveable
 19 waste load allocations.
 20 They were trying to change waste load
 21 allocations. You can't change a waste load allocation. A
 22 waste load allocation is set and it's approved by EPA.

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1 That's the waste load allocation for this TMDL. EPA approves
 2 it. It's submitted. It's immutable. Where the changes are,
 3 obviously, is where's the base pollutant load and how much
 4 from the base to the waste load allocation are we? What's
 5 that difference? How is that difference moving as we move
 6 through the permit?
 7 And it's these numbers that are the very real
 8 backbone of how much progress is being made. So I think that
 9 there should be a clear iteration in all of the impaired
 10 riverways touched by the State Highway Administration. What
 11 is the background load that they're moving from to get the
 12 waste load allocation.
 13 We believe that Waste Load Allocation
 14 restoration plans should be implemented using environmental
 15 site design that will default methodology. Unless the State
 16 Highway Administration can show that its use is impractical,
 17 and in other methodologies in conjunction with ESD, can
 18 achieve the TMDL Stormwater Waste Load Allocation goals, its
 19 milestones and benchmarks.
 20 We also believe that the public participation
 21 effort for Stormwater Waste Load restoration plans should
 22 include the participation of watershed advocates and other

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1 watershed stakeholders in the process of selecting retrofit
 2 and restoration projects. I'm repeating that, but I
 3 mentioned that earlier.

4 One of the things that I wrote to Ray about
 5 and he was very kind to respond, was the use of the term
 6 "Stormwater Waste Load Allocation" or "Applicable Waste Load
 7 Allocation". I think that this terminology should be
 8 consistent throughout the permit, so that whenever one sees
 9 the term, Waste Load Allocation, in this permit which is an
 10 MS4 permit, it ought to be preceded with the word
 11 "Stormwater". So that everybody, the public and the
 12 permittee is clear that it's not a guess as to what waste
 13 load allocation is to be reduced. It's the one associated
 14 with stormwater. And to say applicable or to leave it off in
 15 the text of the permit makes it less clear.

16 And I know, maybe I'm in the weeds on this but
 17 I just suggest that for the sake of consistency and clarity,
 18 that that terminology be used.

19 I would like now to turn to the restoration of
 20 20 percent of the impervious surface property that SHA owns.
 21 This requirement means that the State Highway Administration
 22 must determine the total amount of impervious cover or

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1 impervious surface that it controls and must reduce that
 2 imperviousness 20 percent of that property within the terms
 3 of this five-year permit.

4 Plus, if it had other properties that were not
 5 reduced from previous permits, those are to also be brought
 6 under this permit and those reductions made.

7 We believe, again, that the restoration
 8 methodology for the 20 percent impervious cover restoration
 9 should be Environmental Site Design using evapotranspiration
 10 and infiltration unless it is impractical to use this
 11 methodology and State Highway Administration has exhausted
 12 all reasonable opportunity to use ESD and it can show to the
 13 maximum extent practical that its restoration using other
 14 non-ESD methodologies are going to achieve the same results.

15 The science on the use of Environmental Site
 16 Design is becoming more and more sound. It is now one of the
 17 leading experts on restoration and saving watersheds. The
 18 Chesapeake Stormwater Network and its BMP contest is really
 19 aiming that contest for designers and engineers at ESD and
 20 green infrastructure methodologies.

21 Those methodologies, we believe, and the
 22 science shows in some of its EPA science, that polluted

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1 loadings are more likely to be reduced when using those
 2 methodologies.

3 So that is something that we think should be
 4 emphasized more greatly and a higher use of that should be
 5 required. I don't think that we'll ever reach 100
 6 percent, but it should be more than is being used now.

7 Monitoring. This has been a stumbling block
 8 for many years between advocates and MDE and others. We came
 9 upon a solution with Prince George's County and we advocate
 10 that same solution for the State Highway Administration.

11 We believe to break this logjam that State
 12 Highway working with advocacy, stakeholders, consultants,
 13 design industry, to prepare a monitoring program which will
 14 provide more results from the broader watershed area by
 15 combining monitoring with modeling. It shouldn't be
 16 exclusive one or the other. It should be both.

17 But there is no excuse, given what we know and
 18 how we can go about this, that we are confining to one
 19 watershed, one watershed for this whole permit for State
 20 Highway Administration. And instead, we would like this to
 21 be an open process where we sit down together and hash out
 22 how monitoring should be done. Because the only way that you

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1 will know if you're going to meet waste load allocations,
 2 which is the heart of this permit, is if the progress that
 3 you're making can be measured and monitored and be shown to
 4 be making sound numerical progress.

5 And upon that, I am happy to be here today. I
 6 appreciate you holding the hearing today in the evening. I'm
 7 sorry I was late. Some of my colleagues came from Montgomery
 8 County, and got here sooner than I did, and I apologize for
 9 that. Thank you very much.

10 MR. BAHR: Thank you, Mr. Gilmore. Does
 11 anyone else wish to speak? Okay. Anybody that wants
 12 to submit written testimony after today can do so up until
 13 Friday, March 6, 2015.

14 Comments can be submitted to me, Mr. Raymond
 15 Bahr, Maryland Department of the Environment, Water
 16 Management Administration, Sediment, Stormwater and Dam
 17 Safety Program, 1800 Washington Boulevard, Suite 440,
 18 Baltimore, Maryland, 21230-1708, or at
 19 raymond.bahr@maryland.gov.

20 Additional information on this draft permit,
 21 fact sheet, and stormwater management in Maryland can be
 22 found on MDE's website, www.mde.maryland.gov.

1 After the comment period has closed on March
2 6, 2015, MDE will develop a response to comments document
3 that will support a final determination to issue SHA and MS4
4 permit.

5 Anyone who signed up on our attendance sheet
6 today or gave testimony will be added to MDE's interested
7 parties list for SHA and will be kept apprised of all permit
8 actions via email announcements.

9 If anyone has not yet signed up on the
10 attendance sheet but would like to receive updates, please
11 sign in after this public hearing has concluded. With that,
12 I'd like to thank everybody for attending this public
13 hearing. I see that Mr. Gilmore would like to add one more
14 comment.

15 MR. GILMORE: Yes. I was wondering if it
16 would be possible to extend the close of the record for no
17 more than a week, because many of my colleagues, they told me
18 that they're going to be submitting a statement for the
19 record. They couldn't be here today and they're heavily
20 involved in the Maryland General Assembly, and I was
21 wondering if that could be, in deference to them, they could
22 given a week?

1 MR. BAHR: I think that sounds fair and
2 reasonable. Pick a date.

3 th
4 MR. GILMORE: Well, what's the 13 . That's
5 not a Friday, I hope not.
6 (Off the record.)

7 MR. BAHR: What we'll do is we'll go ahead
8 and MDE will take this under consultation and we'll let
9 everybody on the interested parties list know. The request
10 was to extend it by a week. I think that we can honor that
11 and we'll circulate that information to the group.

12 MR. GILMORE: That actually does fall on
13 th
14 Friday the 13 . That would be fine with us.

15 MR. BAHR: Okay. We'll let you know.

16 MR. GILMORE: Thank you.

17 MR. BAHR: Thank you, Bruce. Anything else?
18 Okay. I'd like to thank everybody for attending this very
19 important meeting. Thank you.

20 (Whereupon, the public hearing
21 concluded at 6:00 p.m.
22

1 (THE FOLLOWING WAS RETYPED FROM A TYPEWRITTEN PAGE
2 SUBMITTED BY MARIAN DOMBROSKI WHO TESTIFIED IN PERSON)
3 IT WAS REQUESTED TO BE MADE PART OF THE RECORD OF THE
4 PUBLIC HEARING HELD ON THE EVENING OF FEBRUARY 26, 2015.

5
6 Public Hearing: SHA MS4 Permit - #11-DP-3313 (MDOO68276
7 022615
8 5 pm MDE's Terra Conference Room 1800 Washington Blvd.
9 Baltimore, MD 21230

10 Testimony delivered by:
11 Marian Dombroski, RA LEED AP 6205 Lombard Street
12 Cheverly, MD 20785
13 - AWCAC - Vice Chair for Prince George's County, Maryland
14 representing Friends of Quincy Run Watershed
15 30-year resident of Prince George's County, Maryland
16 Council District 5, SHA District 3

17 -----

18 I am a founding member of Friends of Lower
19 Beaverdam Creek, Friends of Quincy Run and AWCAC Vice Chair
20 for Prince George's County. I am one of many
21 citizens doing our part to restore the health of our local
22 streams, the Anacostia River, and the Chesapeake Bay. We

1 value our natural areas, and support sustainable development
2 practices for health, recreational, scenic, and economic
3 benefits to the community. Clean water is one of the
4 greatest challenges of this century. We believe it is our
5 responsibility to do all that we can to achieve it. The
6 Clean Water Act was passed over 40 years ago. Many
7 communities across our country have made great strides
8 towards achieving clean water. Boston and Denver, to name
9 just two, have made their rivers swimmable. I hope we soon
10 do the same for ours.

11 Thank you for the opportunity to speak at this
12 hearing and provide input into this MS4 Permit which has the
13 potential of having a very positive impact on the health of
14 my community and of our state. Living in an urban area, as I
15 do, I see every day the impacts of our roadways and
16 supporting infrastructure.

17 My neighborhood is bound by the Baltimore-
18 Washington Parkway (built the year I was born), Route 50, and
19 Route 202. The construction of these roadways drastically
20 altered the hydrology of this corner of the Anacostia
21 Watershed, just 1 mile from the River itself.

22 This permit is important to me on a very personal

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1 level. The condition of the 2 streams closest to me is
 2 tragic. In fact, Lower Beaverdam Creek has been identified
 3 as the most degraded in the Anacostia Watershed.
 4 I am happy to see many improvements over the last
 5 permit, and look forward to changes to our waterways that, I
 6 hope, will be for the better. I tried to follow the
 7 organization of the permit when putting my remarks together,
 8 but am not making any promises.
 9 Probably the most physically evident challenges to
 10 clean water in my area is the lack of coordination of
 11 efforts. This was recognized in the permit. I hope more
 12 consideration will be given to this critical issue. Several
 13 agencies in my county issued an MOU this summer aimed at
 14 facilitating permitting and declaring Prince Georges’s County
 15 as Open for Business. Sadly excluded from this group was our
 16 Department of the Environment. I hope a similar interagency
 17 effort will be undertaken for our clean water programs. We
 18 need to move forward for the Bay - together.
 19 Now quickly, here are some of my concerns:
 20 • Please ID all SHA infrastructure - like the storm drain
 21 stenciling program.
 22 • Post signage (similar to Planning Board notification) in

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1 areas “in-design” and allow for community input.
 2 • Direct all agencies working on public property to post
 3 signage identifying their agency and project.
 4 **WATERSHED RESTORATION AREA**
 5 • Add “revisit SHA standard details to include the most
 6 effective green SWM techniques”.
 7 **STORM WATER SYSTEM**
 8 • Include all SHA property - do not exclude districts 1,
 9 2, and 6. All infrastructure must be designed and
 10 improved to protect our waterways.
 11 • Include maps in the permit indicating the SHA Districts.
 12 • Revisit major projects in the pipeline to find
 13 opportunities for improvement/incorporation of ESD
 14 features.
 15 **PERMIT REQUIREMENTS**
 16 • “Show a reduction of pollutants” More waterways, at
 17 least one per major watershed, must be monitored to make
 18 this determination. We challenge you to start with
 19 Lower Beaverdam Creek - the most degraded in the
 20 Anacostia.
 21 • So glad to hear that you plan to manage events to 2.7”,
 22 and plan to use woods in good condition as the standard.

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1 **LITTER AND FLOATABLES**
 2 • “Evaluate current problems and develop public outreach
 3 and education”. Many people are working on this.
 4 Please support, financially and otherwise, groups
 5 already doing this work.
 6 • Support volunteer efforts by supervising work in
 7 dangerous areas, helping to remove bulk items at
 8 community clean-ups. Support work on development of
 9 trash traps.
 10 **WATERSHED ASSESSMENTS**
 11 • Needs more detail and provision for public
 12 participation.
 13 • Review the Restoration Plan prepared by the Corps of
 14 Engineers to aid in project selection.
 15 • Distribute protocol for assessment and monitoring.
 16 • Make SHA results available to the public.
 17 **ENFORCEMENT**
 18 • “successive iterations will be driven by assuring
 19 maintenance of water quality standard”.
 20 • Goal must always be improvement until all waterways are
 21 safe, swimmable and fishable.
 22 **TRANSPARENCY** must be made a priority.

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1 Please include the following:
 2 • Criterion for project prioritization and selection.
 3 • Define a clear path for public participation.
 4 • Too many times projects are developed without any
 5 notification of or input from the community. We pay for
 6 these projects. WE live with the results. We are
 7 working toward the same goals. Please make us partners.
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1 CERTIFICATE OF COURT REPORTER

2

3 I, William Alan Bodenstein, a Notary Public of
4 the State of Maryland, do hereby certify the foregoing
5 proceeding was recorded verbatim by me and this transcript is
6 a true record of the proceedings.

7 I further certify that I am not of counsel to any
8 of the parties, nor in any way interested in the outcome of
9 this action.

th

10 As witness my hand and notarial seal this 6 day
11 of March, 2015.

12

13 _____
14 WILLIAM ALAN BODENSTEIN, Court Reporter
15 NOTARY PUBLIC

16

17

18 My Commission Expires: November 7, 2015

19

20

21

22

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5 3:4 5:14 9:19 35:8
35:16
5:00 1:14
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50 11:6 36:18

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6 14:3 32:13 33:2
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