

**TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER
PERMIT BALTIMORE COUNTY, MARYLAND; NO. 20-DP-3317, GENERAL NPDES
NO. MD0068314**

0:09

Good afternoon, everyone. Thank you for attending this now, 3 55 0 PM.

0:15

We will go ahead and get started at five minutes. Thank you.

5:04

Alright, it is now four PM, We'll go ahead and get start.

5:11

Yeah.

5:12

Welcome to tonight's public hearing. On the tentative determination to, to issue an N P S M a sport permits, Baltimore County.

5:21

My name is Andrew Tango, and I'm a Regulatory Compliance Engineer, Sediment Stormwater, and Dam Safety Program.

5:29

one of my roles is serving as the administrator for Baltimore County's emus for comment. I will be acting as a hearing officer tonight.

5:39

We will be making a few brief remarks concerning the permit history and the new permanent after that we will be accepting comments.

5:47

Please understand that we will not be taking questions on the permit today.

5:51

If there are technical questions, You may ask them in the questions box.

5:55

Also, if you wish to raise your hand, are asked to unmute your microphone, you may do so in the attendee's pull down menu on your control panel.

6:08

In accordance with Maryland Administrative Procedures Act, known as for tentative determination, wants, publishing the Maryland Register on October 23rd, 2020, and the Baltimore Sun on October 23rd and 30th 2020, sent to the department's interested party list and posted on the department's website.

6:30

The proposed permit and supporting fact sheet are also available on the department's website.

6:35

Everyone who registered for this hearing will be added to the interested party list and will receive notice of any actions regarding this permit.

6:45

Now, I will go through a brief summary of the County's image for permit history.

6:50

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Maryland has been delegated authority by the United States Environmental Protection Agency, EPA to administer the MPS program in the state.

6:59

File Stormwater Regulations were adopted by EPA in November 1990, according to Section 402, P of the Clean Water Act.

7:09

These regulations require in part that owners or operators of storm drainage systems serving populations of greater than 100,000 people, including Baltimore County, apply for a Phase one and P, S municipal stormwater permit.

7:26

Baltimore County was considered a Phase one municipality due to its population, which is over 690,000 based on 1990 Census data. The initial permit for permit was issued in November 1994.

7:40

This permit laid the foundation for a comprehensive approach to controlling runoff by establishing the necessary legal authority.

7:47

A solid stormwater management infrastructure, identifying sources of pollution, monitoring storm events to characterize urban runoff, Enhancing existing erosion and sediment control and stormwater management programs, and establishing new programs for providing education and eliminating and legal storm drain system discharges.

8:11

This permit was re-issued on March 31, 2000, June 15th, 2005 and most recently, on December 23rd, 2013.

8:21

To improve local water quality and the Chesapeake Bay Baltimore County's.

8:25

Most recent permit, included a requirement for the restoration of 20% of the impervious surface area within the county. That was not already managed for stone, wanted to the maximum extent practicable. To meet this requirement, Baltimore County restore its 6064 acres of impervious area.

8:45

Now I will cover a brief synopsis of the new items for Permit.

8:49

This permit requires Baltimore County to continue restoring impervious acres for the reduction of nutrients and sediments and implementing pollution reduction plans targeting specific pollutants that impair local water such as PCBs, trash or bacteria.

9:06

This term, it builds on new scientific knowledge, as well as lessons learned under the previous permits.

9:13

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With these advancements, Baltimore County will continue to be a leader in reducing stormwater runoff locally and nationally.

9:23

The new permit incorporates the implementation of stormwater best management practices.

9:29

Brian, Travis Acre Restoration using Account is total maximum daily load restoration plans and being a pre implementation strategy.

9:38

Establishes annual impervious acre restoration benchmarks throughout the five year permit term.

9:44

Provides incentives to implement greenwash stormwater infrastructure to increase the use of natural designs and ... that provide a climate resiliency co benefit.

9:57

Strengthens the illicit discharge Detection and Elimination Program, including a requirement to prioritize outfall screenings in areas with the highest pollution potential.

10:08

Improves winter management of deicing and anti icing materials to further reduce chlorides a pollutant of emerging concern. Encompasses the new 2020 accounting guidance that includes: O'Shea six, Chesapeake Bay watershed model, and new and updated

10:30

We will now recognize speakers in the following order.

10:33

First, any luck, elected and government officials, Then anyone who has raised their hands, please do so if you wish to comment.

10:42

We will let each speaker know that they are unmuted.

10:45

You must also unmute yourself to speak.

10:48

Please state your name and affiliation before you present your testimony.

10:53

Speakers will be given three minutes to present comments.

10:56

If there's extra time, you may comment more than once, and once again, we will not be taking questions on the permit today.

11:04

So now I would like to ask whether there are any local elected or government officials presidents that would like to comment to the record.

11:12

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If you're not a local, watch it or government official, please refrain from raising your hand until all officials have had a chance to speak.

11:23

Andrew: mister Robert Hirsch's raised his hand.

11:26

Mister Hersh, I've unmuted you. Please unmute yourself.

11:31

Good evening. Please state your name and your affiliation and then you may begin.

11:36

Hello my name is Robert Kirsch, I'm the Manager for the Watershed Management Monitoring section and the Baltimore County Department of Environmental Protection and Sustainability.

11:45

Good evening, and thanks to everyone for participating in this hearing.

11:49

During the past seven years, to comply with the current MS for permanent, Baltimore County has prepared 29 ... implementation plans, screened more than 200 out, falls for Alissa Discharges.

12:00

Investigated over 1400 pollution complaints, sampling for invertebrates or fish at more than 800 locations.

12:07

Monitored chemical or bacterial concentrations and streams, their monthly samples at 82 different sites, and increased our investment in public education and outreach. County residents reduce litter and other pollutants.

12:19

Additionally, Baltimore County completed the challenging impervious surface restoration requirement for investments in capital and operational

12:27

Baltimore County began building its extensive portfolio of Stormwater ... in the late 19 seventies and began installing restoration MP's when the Waterway Improvement Program was created and funded in the early 19 nineties.

12:40

Watershed associations supported in part by grants from Baltimore County, completed restoration projects and increasing scale and complexity on private lands from simple downspout disconnections to engineered bio retention facilities.

12:53

Religious institutions, businesses, and county residents have all contributed to the effort through tree plantings, rain gardens, rain barrels, and litter cleanups.

13:01

Developers and landowners have invested in extensive redevelopment projects due to the regulatory programs implemented by Baltimore County have installed modern stormwater BMP,

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is improving the quality and quantity of stormwater runoff from previously unmanaged impervious surfaces.

13:20

By the end of the Fire, Kermit term, in 20 11, Baltimore County's public and private restoration efforts.

13:25

I planted 142 acres of trees created 4.5 miles of living shorelines, restored 18 miles of streams, install 93 D nitric flying septic systems, and constructed more than 2600 stormwater management facilities treat stormwater runoff from more than 30,000 acres of land.

13:44

In the next nine years, between 2011 and today, we added two more miles of living shorelines, doubled our stream restorations to 36 miles increased our tree plantings and demystifying septic systems fivefold to 755 acres of trees and 457 systems.

14:01

We replaced another 600 cores that takes us very sewer service and installed another 1536 stormwater facilities, bringing the total land area treated by a stormwater facility, beyond 37th day, 37,000 acres.

14:17

To achieve this high rate of restoration, Baltimore County's capital budget has supplied an average of \$25 million per year to support the planning, design, installation, and maintenance of these thousands of individual

14:29

We're proud of our investments and what we've accomplished.

14:32

However, much work remains to be done.

14:35

My restoration as needed to eliminate the water quality impairments that remain in the county streams reservoirs entitle waivers.

14:41

The county must also continue to protect its higher quality waterways, which are visited by anglers, voters and nature lovers of all kinds in which provide drinking water to most of the Baltimore region.

14:50

Because of the support of our tax rate payers, the County Council and County Executive, I've been able to maintain funding with counties, water quality restoration, and protection efforts.

15:01

This new MS Word permanent helps ensure the county's aggressive restoration and protection efforts will continue and requires the county to make additional investments and water quality and further expand its portfolio of thousands of BMP.

15:14

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The permanent requirements appear to align with the maximum effort Baltimore County can achieve in the current fiscal situation.

15:21

My colleagues in county government, and the residents, businesses, and institutions we partner with, stand ready to continue our efforts and meet the challenges of this new requirement.

15:30

We welcome your ideas, suggestions, and partnerships.

15:36

Thank you, mister Hersh.

15:39

Are there any other local, elected or government officials President that would like to speak today?

15:55

Rockfish has raised his hand again. Mister Hersh, I'm unmuted as well.

16:01

I'm unmuting you, please unmute yourself.

16:06

So I will come back to you after the other government officials have gotten the chance to speak. My apologies.

16:19

There are no other elected officials who have their hands raised at this time.

16:26

Ms. Ms. Hall.

16:31

Ms. Jen Ayesha has raised her hand.

16:34

Ms. ISO, I'm unmuting you please unmute yourself.

16:39

Hi. Good evening. Thank you for the opportunity to speak this evening. My name is Jennifer ..., I'm the Executive Director at Bluewater Baltimore.

16:50

We're a local non-profit watershed organization that works in both Baltimore City and Baltimore County to protect and restore the waterways that flow into the Patapsco and back rivers.

17:01

We have been advocating for strong, clean water laws, and permits on behalf of our region's residents for more than 10 years.

17:09

And stormwater control has always been at the top of the list of sources of pollution and increasingly flooding around our plague R R plaguing our local waterways, excuse me.

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17:25

I'm here today to express a couple of concerns about the proposed SBIR permit.

17:32

The first one is around the the the resulting water quality expected from the suite of implementation projects.

17:43

Blue Water Baltimore has been conducting water quality data monitoring in the Gwen's balls and the Jones Falls Streams in Baltimore City, and Baltimore County since 20 13.

17:54

We have one of the most robust water quality monitoring programs with 49 stations throughout the Jones Falls Gwen's Falls and the Patapsco, Main stem.

18:08

In April of this year, for the first time, we were able to not only conduct a statistical analysis or statistical analyzes of our data.

18:18

We were also able to find, for the first time some concerning trends in our data, as well as a few good news stories.

18:28

We're always asked the question: Is water quality getting better or worse in Baltimore City and Baltimore County?

18:35

And our data is showing two important trends.

18:38

First, for good news, we're seeing the bacteria levels are largely improving at many of our stream stations within the county.

18:47

This is great news and it's an indication to us perhaps that work on our sewage infrastructure is beginning to really show results within water quality itself.

18:58

But we are not seeing improvements in many parameters in our stream stations, including nitrogen, phosphorus, water clarity and conductivity.

19:07

In many cases, we're actually seeing statistically significant worsening trends in our water quality For these key metrics, What this disparity is suggesting to us, is that perhaps our storm, our approach to stormwater management is not enough.

19:25

Um, the second challenge or the second concern that that we'd like to share is about the, the, the number of I guess, impervious acres of restoration or treatment that is proposed within this existing draft MS for. It is our understanding that in order to meet the Chesapeake Bay Bay M.d.l., watershed implementation plans have been, have been developed for every county, every jurisdiction in the state.

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19:57

And that's that third iteration of our Watershed Implementation Plan, which is to take us to 2025, suggests that all of our major emus for Phase one jurisdictions should be treating or restoring 2% of their impervious acres annually in order to meet their stormwater pollution reduction targets.

20:18

We're very concerned that m.d.e.

20:20

appears to be acknowledging and allowing non compliance with this provision of the the width phase three, in that Baltimore County will not be striving to meet its 2% reduction in in stormwater.

20:36

And there is an assumption stated in the fact sheet, along with this permit, that other jurisdictions, other MS or jurisdictions will simply over comply to meet that cumulative goal.

20:48

This concerns us because it represents a real possible scenario for inequity between Baltimore County.

20:58

As a jurisdiction and in the Patapsco and Back River, the downstream communities which are largely Baltimore City, Baltimore City is is has a predominant population of black and brown and low wealth communities that are going to either be asked to have to bear the brunt of additional pollution That's not being reduced upstream as well as the additional burden of floodwaters. That may not be being controlled upstream because there's about 342 impervious acres that are not going to be treated passed.

21:42

Thank you for your comments. And we will give you the opportunity to raise your hand.

21:46

At the end, we will move on to the next commenter now.

21:51

Mister Doug Meyer's has raised his hand, mister Myers, I'm unmuting you, Please unmute yourself.

21:59

Good evening. Please state your name and your affiliation and then you may begin.

22:03

Hello my name is Doug Myers on the Maryland Senior Scientist at Chesapeake Bay Foundation. Much light blue water, Baltimore we have been striving for more of the load reduction in nitrogen phosphorous and sediment to come from stormwater, especially in Maryland where we have a significant developmental on the I 95 Corridor. And we have progress runs from the Chesapeake Bay program showing that stormwater isn't increasing load over time. The tentative determination for Baltimore County underscores the department and environments failure to account for nutrients, sediment loads, from the urban sector towards the

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Phase three watershed implementation plan or weapon of the Chesapeake Bay T M.d.l. Total Maximum Daily Load.

22:48

The permits states that it is consistent with the width, but it does not contribute significantly to meeting the urban sector allocation as Jen ... had already testified, mostly because the permit terms lack specific nutrients, sediment reduction targets and accountability. The 2696 acres of impervious frustrations be completed over five years is an increase over the previous term which CBS appreciates Ford under 90 acres, can be met through the nutrient trading, which is about 18%. With this limitation only for trades to be made within the wastewater sector, however, the permit is silent on whether trades with other sectors can be made for additional impervious acres.

23:31

The tentative determinations says that benchmarks are generally not to be considered enforceable. Is this is that M.d.e. saying that they won't enforce them? Does this mean that only the only time Baltimore County could be held accountable is after failing to meet its permit requirements on the year that the M.d.l. is due?

23:50

Baltimore County has numerous local TMD Elson shares watersheds with Baltimore City flowing to Baltimore Harbor. Combined, the two jurisdictions, stormwater contributions, continue to prevent the Harbor for meeting water quality standards, and Baltimore County's upstream setting makes it difficult for Ballrooms Baltimore City to do so alone. Especially if reliance on expensive urban best management practices. We consider this a potential environmental justice issue that the department should address through this permit. Thank you for your time.

24:21

Thank you.

24:24

Mister Benjamin Aleksandra histories his hand, mister Alexandra, I've unmuted you, Please unmute yourself.

24:32

Thank you. Again, you hear me.

24:35

Please state your name and your affiliation and they may begin.

24:39

This has been Alexandra, I'm the water program director for the Maryland League of Conservation Voters, which is representing over 20,000 members, many more voters here in Maryland.

24:53

OK, so, thank you for the opportunity to comment.

24:56

And also, thank you for the opportunity of actually providing us a little peek a draft of this permits over the summer as well as clearly making some some minor changes to the language, some adjustments based on the comments that we've made back in September. However, many

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and the really the brunt of our comments and concerns remain. You know, we're really hoping to see some significant changes in this time at which we're really absent, will be submitting official written comments and working on a larger letter with the Clean Water Coalition.

25:33

So, I'll just try to be brief and focused on many of my comments and things that weren't said, because I would like to echo and agree with the comments that were made by both John and Doug. You know, but, as we've been saying, for years, there's really a wearing disconnect between water quality and permit requirements, as Jen was saying, and we would really like to see more focused on the actual waste load allocations.

25:58

But since that was already mentioned, I really want to focus on on a few issues, nutrient trading, climate change, environmental justice, and green infrastructure.

26:06

So, while we appreciate the m.d.e. limited trading to the wastewater treatment plants for half of the permanent. This is still a very worrying practice, according to our analysis.

26:15

The summer of the traits that we seen so far in the nutrient trading program, we could find almost no evidence to prove actual additionality.

26:27

So, if no additional pollution reduction occurs, and this basically means, that you know the permit requires only half the pollution reduction that it would if you, if you allow.

26:40

nutrient trading for half the permit, That extensively removes half the pollution reduction requirement.

26:46

And so this really must be fixed and significantly changed to limit nutrient trading to only ones that can create, verify, additionality, pollution reduction.

26:57

Secondly, climate change. This premise really does not adjust climate change and we expect to see stronger and stronger storms.

27:04

Back when I my old job working at the Cato Institute was doing water quality sampling and found that around 95% of the sediment phosphorous into our waterways came from just a few of the biggest storms annually. We're going to be dealing with these significant, significant increases from significantly stronger storms. So when we need a permanent standards that are prepared to withstand these storms.

27:27

And M.d.e. has repeatedly stated the importance of addressing climate change and its policies and programs, and we see this as a key example, where that rhetoric can really be put into action.

27:38

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Next is, I just want to briefly echo what Jen was saying on climate change. We need more equity and analysis and reporting more equity and public outreach. And notice more equity and program funding.

27:49

And finally, is green infrastructure.

27:54

In the accounting guidance, you know, we've been working with M.d.e. and a group of diverse stakeholders and Emma's for jurisdictions for years to try to look at green infrastructure and co benefits.

28:05

And we were encouraged to see some of that included in this. In the accounting guidance, however, we're seeing there's potential for it to very much be overshadowed by the adjustment and addition of credit for things like stream restoration the different way that they're doing. Street sweeping, that could really overshadow the good work that we had put in there.

28:28

So we really want to make sure that we have more focus on more permanent practices with more co benefits like riparian forest, reforestation projects. In this next permit, Thank you so much for your time.

28:44

Thank you.

28:52

Is there anyone else who would like to speak, before we return to those who would like to speak for a second time? Please raise your hand now, if so.

29:03

Seeing no new hands raised, Mister Rob Hersh has raised his hand, again, mister Hersh, I'm Unmuting, you, please unmute yourself.

29:12

I'm very sorry. I thought I hadn't taken my hand down instead of raising it.

29:16

So, please disregard.

29:20

No problem.

29:28

OK, this, is there anyone else who wishes to give testimony this afternoon?

29:44

Mister Doug Meyer's, has raised his hand, again, mister Myers, I'm Unmuting, you please unmute yourself.

29:50

Thank you. Again for the record, Doug Mires, Maryland senior scientist Chesapeake Bay Foundation. one thing since I have a little bit of time for all the permits is this option to use the pooled monitoring program. We understand the ... initiative was developed between the state and

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Chesapeake Bay Trust to be able to get a better handle on the BMP effectiveness. And in the six years at that program, has going on. There's been no published report either by the Chesapeake Bay Trust or by m.d.e. that shows what the findings and results of that are.

30:29

And so, we're not we're not thinking that that has been able to completely replace the requirement for individual monitoring within the counties. And so, we don't think it should be an option that should be required. In addition to the individual monitoring, thank you.

30:54

Thank you, Ms. Aliceville, Peter has raised her hand, is full Petah, I'm Unmuting you please unmute yourself.

31:02

Hi, my name is Alice Volterra, I'm the Baltimore Harbor Water Keeper for Blue Water Baltimore. one of the things we did in anticipation for this public hearing was solicit input from our community members to really find out how stormwater volumes are negatively affecting them, and to see if there's any connection with the upcoming Kermit. So I'm just going to read you a very short piece of an e-mail that we received. This is from a Baltimore County resident.

31:32

White marsh run flows behind our house. With each storm the ground's next to the creek continues to erode. Some years ago, the creek was restored with large rocks and additional soil because the sewer line was exposed.

31:45

Since then, the rocks have moved from the sides of the creek, and erosion is happening again.

31:50

This is causing stress on the hills on both sides of the creek, to fall into the creek bed, this is extremely disheartening.

31:57

So, this is just one example of the many stories that we hear from our community members, of people watching their tax dollars literally flowing down the stream where they live. These stream restoration projects get implemented, but they're not up to the task. So, one thing that we really want to express is that climate change needs to be taken into account for these permits.

32:23

We know that the current calculations aren't reflective of the rain events that we're experiencing in this region, and we know that estimates of rainfall show that we're going to be getting more intense and more frequent storms in the future. So, if the stream restoration projects are getting blown out already, we know that they're going to continue to get blown out even more frequently in the future. So these permits absolutely need to take climate change into account. Thank you very much for your time.

32:51

Thank you for your comments.

32:57

Now, Ms. ..., since you were interrupted by the three minute timer, would you like to complete your testimony?

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33:04

I'm unmuting you just so you can give us an answer.

33:09

I'm fine.

33:10

I think my colleagues have shared where, where I'm in agreement with everything that's been said.

33:19

Thank you.

33:25

Anyone else wish to give any testimony this afternoon?

33:30

I see that mister Doug Meyer's has raised his hand.

33:33

Was that I'm going to unmute you now.

33:39

Sorry, I just didn't put my hand down. I'm sorry about that.

33:43

No problem. Thank you.

33:52

No. other hands are raised at this time.

33:56

OK, well, thank you to everybody who provided comments, and thank you for attending tonight's hearing.

34:04

Public comments will be accepted until January 21st, 2021.

34:09

Comments may be submitted by either e-mail or regular mail, as indicated.

34:15

I'll wait a minute or so to allow people to take down this information. Also, this information will be available on our website.

35:24

OK, well, thank you very much for attending tonight's hearing.

35:31

And that will conclude tonight hearing.

35:34

And this hearing is now closed.

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