In the Matter of:

Maryland Department of the Environment

August 7, 2012
Public Hearing

Condensed Transcript with Word Index

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 1          MARYLAND DEPARTMENT OF THE ENVIRONMENT
 2              WATER MANAGEMENT ADMINISTRATION
 3     SEDIMENT, STORMWATER AND DAM SAFETY PROGRAM
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 7                     PUBLIC HEARING
 8            TENTATIVE DETERMINATION TO ISSUE
 9       STORMWATER PERMIT FOR BALTIMORE CITY
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13              TUESDAY, AUGUST 7, 2012
14                     10:00 a.m.
15                 BALTIMORE, MARYLAND
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21    Reported by:  Kathleen Vetters
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 1             P R O C E E D I N G S
 2             -   -   -   -   -
 3          MR. CLEVENGER:  Good morning.  We're on the
 4    record.  It's about 10:00 a.m. on Tuesday, August 7,
 5    2012.  My name is Brian Clevenger.  I'm the Program
 6    Manager of the Maryland Department of the Environment,
 7    Sediment, Stormwater and Dam Safety Program.  I would
 8    like to welcome you to MDE this morning to accept public
 9    comments on a draft National Pollutant Discharge
10    Elimination System, NPDES, Municipal Stormwater Permit
11    for Baltimore City.  I will be acting as the hearing
12    officer this morning.
13          Introductions.  I would like to introduce at
14    least some of the MDE employees here.  Stewart Comstock
15    works in our Stormwater program.  Ray Bahr is the
16    Division Chief of Program Review.  Jay Apperson is with
17    Communication, and especially my boss -- say good things
18    about me on the way out -- Jenny Carney.  Steve Johnson,
19    also, from our Attorney General's Office, as well as
20    Paul DeSantis and Lynn Angotti in the back.
21          As I said before, we have these two rooms
22    together for a couple hours.  I think we'll get through
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 1                 A T T E N D E E S
 2
 3    Mr. Brian Clevenger, MDE
 4    Mr. Stewart Comstock, MDE
 5    Mr. Ray Bahr, MDE
 6    Mr. Jay Apperson, MDE
 7    Ms. Jenny Carney, MDE
 8    Mr. Bruce Gilmore, Maryland Stormwater Consortium
 9    Ms. Tina Meyers, Baltimore Harbor Waterkeeper
10    Mr. David Flores, Blue Water Baltimore
11    Ms. Rebecca Hammer, Natural Resources Defense Council
12    Ms. Diane Cameron, Audubon Naturalist Society
13    Ms. Alison Prost, Chesapeake Bay Foundation
14    Mr. Dan Smith, Friends of Lower Beaverdam Creek
15    Mr. Cory Coppock, Anacostia Watershed Citizens Advisory
16    Mr. Richard Klein, Comm, Environmental & Defense Services
17    Mr. Andy Galli, Clean Water Action
18    Ms. Dana Minerva, Anacostia Watershed Restoration
19    Ms. Laurie Schwartz, Waterfront Partnership of Baltimore
20    Ms. Claudia Friedetzky, Sierra Club
21    Mr. Judd Anderson, Baltimore Rowing Club
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 1    it between then, but if we run long we may have to do
 2    some shuffling of chairs, so please bear with us.
 3          As you came in this morning there were several
 4    handouts on the table.  There is a copy of the permit
 5    that we're taking up this morning.  Also, there's a fact
 6    sheet that was prepared according to federal regulations
 7    for stormwater and there is an at-a-glance sort of basic
 8    NPDES municipal stormwater fact sheet that should help
 9    clarify some of the issues that we'll be talking about
10    this morning.
11          Also, when you came in here was a sign-up
12    list.  This is not an attendance sign-up list.  If you
13    signed this we're going to ask you to speak.  So if you
14    don't want to speak let us know.  We've had a couple
15    people thinking it was for attendance.
16          I have several prepared paragraphs that I
17    intend to read into the record.  After that I will ask
18    if there's any elected officials that want to be
19    recognized first as a courtesy, and then we will call
20    down the list of speakers to accept public testimony.
21    After everyone is finished, I'll give a couple of
22    thoughts about what happens next after we get public
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1 comments here and during the written public comment
2 period as well.
3   The purpose of today's hearing is to accept
4 public comments on the Maryland Department of the
5 Environment's tentative determination to issue
6 Baltimore City's Municipal Separate Storm Sewer
7 System's so-called MS4 permit.
8   This hearing is being held to honor two
9 separate requests that the Department received after an
10 announcement was advertised in The Baltimore Sun of the
11 Department's tentative determination of the City's
12 permit. One request came on June 18, 2012 from Ms.
13 Tina Meyers on behalf of the Baltimore Harbor
14 Waterkeeper, and the other on June 26, 2012 from Mr.
15 Bruce Gilmore on behalf of the Maryland Stormwater
16 Consortium. This hearing allows MDE to meet its
17 obligations under Maryland's Administrative Procedures
18 Act.
19   For background, Maryland has been delegated
20 the authority by the United States Environmental
21 Protection Agency, EPA, to administer the NPDES program
22 in the state. Final regulations were adopted by EPA in

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1 assessing existing water quality in the City on a
2 watershed basis and retrofitting 10 percent of the
3 City's impervious area.
4   NPDES permits last for five years and an
5 annual report is required to be submitted with a fourth
6 year's report acting as a reapplication. Baltimore City
7 submitted its fourth annual report in June 2009. Since
8 then the Department has held numerous meetings and had
9 many conversations with individual citizens,
10 environmental advocates, EPA, and other county
11 government officials that are similarly affected by the
12 NPDES municipal permit program.
13   The result of these meetings and conversations
14 is the draft permit we take up today, yet more
15 significant conditions have been added to this version
16 of Baltimore's NPDES Phase 1 Municipal Separate Storm
17 Sewer System Permit due to a regional focus on restoring
18 Chesapeake Bay and Maryland's acceleration to improve
19 urban stormwater control.
20   The City's permit will require total maximum
21 daily loads, or TMDLs, and stormwater waste load
22 allocations to be addressed, and start and complete the

6

1 November 1990 according to Section 402(p) of the Clean
2 Water Act. These regulations required in part that
3 owners of storm sewer systems serving populations
4 greater than 100,000 apply for Phase 1 NPDES Municipal
5 Stormwater Permit.
6   Based on 1990 census data, Baltimore City was
7 considered a Phase 1 municipality due to its population,
8 which was over 700,000 at the time. The City submitted
9 a two-year, two-part application and was issued an
10 initial Storm Drain System Permit in November 1993.
11   This first permit required the City to
12 maintain legal authority to control storm drain system
13 pollution, develop geographic information system mapping
14 on a watershed basis, use a combination of chemical,
15 physical and biological monitoring to characterize storm
16 samples, and develop management programs to address new
17 and significant redevelopment runoff, construction site
18 discharges, illegal storm drain system connections, road
19 maintenance and education.
20   This permit was reissued in February 1999 and
21 again in January 2005. For both of these reissued
22 permits additional requirements were included for

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1 restoration of an additional 20 percent of uncontrolled
2 impervious area within the permit area. Also, new in
3 this permit are additional requirements regarding litter
4 control. These and all other remaining permit
5 conditions should go a long way toward reaching the
6 state's stormwater control goals and abating the
7 discharge of pollution from Baltimore City's storm drain
8 system.
9   That's all I have prepared, so that's a good
10 thing. We can speak a little more extemporaneously.
11 Are there any elected officials present today that would
12 like to be recognized first? Okay. We'll start on our
13 speaker list. First, Mr. Bruce Gilmore who requested
14 this hearing. Each of you speakers, if you could state
15 your name and spell it for the record so our
16 stenographer doesn't have trouble trying to figure that
17 out and keep your comments relevant to this permit,
18 please. Thanks.
19   MR. GILMORE: My name is Bruce Gilmore,
20 B-R-U-C-E, G-I-L-M-0-R-E. I'm here today in two
21 capacities, first as the coordinator of the Maryland
22 Stormwater Consortium and as representing the Anacostia

2 (Pages 5 to 8)

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1   Watershed Society. I would like to say, Brian, if I
2   may, that I appreciate, we appreciate having this
3   hearing so quickly. We also appreciate the openness and
4   the facility in which our questions have been answered,
5   and we found this to be a very thorough and enjoyable
6   exercise. I think that's relevant to the permit, I
7   believe.
8   In my capacity as the coordinator of the
9   Maryland Stormwater Consortium I would like to
10   introduce for the record four documents. The first is
11   a document we prepared at the end of 2011 which is what
12   we call a redline of the then existing iteration of
13   the proposed permit. That would be Exhibit 1, I guess,
14   for us. Should I mark them?
15   MR. CLEVENGER: Yeah, you can.
16   MR. GILMORE: Okay. The second is a letter to
17   Dr. Summers and Jay Sakai from me and Rebecca Hammer.
18   That would be Exhibit 2. That was dated August 30,
19   2011. The third document is a letter from the
20   Chesapeake Bay Foundation, which was sent to Jay Sakai
21   on March 7, 2012. That would be Exhibit 3. And the
22   fourth and last document is a letter dated April 30,

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1   2012 to Dr. Summers from the Consortium, and that would
2   be the final document, Exhibit 4.
3   I would also like to submit for the record the
4   written testimony on behalf of the Anacostia Watershed
5   Society and I appreciate the opportunity to testify.
6   MR. CLEVENGER: Thank you, Bruce. Tina
7   Meyers.
8   MS. MEYERS: Tina Meyers. That's T-I-N-A, and
9   actually my full name is Christine, so
10   C-H-R-I-S-T-I-N-E, last name is M-E-Y-E-R-S. I am the
11   Baltimore Harbor Waterkeeper with the organization Blue
12   Water Baltimore, and I'm testifying this morning both on
13   behalf of myself individually, as well as the
14   organization as a whole.
15   First, I'd like to thank MDE for listening to
16   and considering our comments. I would also like to
17   thank both MDE and the City for the hard work and
18   resources that have already gone into developing this
19   permit. I know that everyone involved has the best of
20   intentions for cleaning up Baltimore's waterways and I
21   have high hopes that together we can get this permit to
22   the place where it does that effectively.

11

1   I began my current position only six months
2   ago. In that short period of time I have seen a lot of
3   things in Baltimore's waterways that I never thought or
4   hoped that I'd see. I have been over to one of
5   Baltimore's largest, most persistently contaminated
6   outfalls, Gwynn's Run, which is literally just down the
7   street from here, from MDE. When I saw and smelled the
8   outfall I was literally stunned into silence. There is
9   trash strewed throughout the trees and stream banks
10   everywhere you look. As you get closer to the outfall,
11   the smell of sewage overwhelms you, and the water
12   discharging from the outfall is a cloudy, cement grey.
13   This outfall, similar to many throughout
14   Baltimore, has elevated bacteria levels and sewage
15   discharges even during dry weather. I was shocked to
16   find out that there are children and adults that still
17   swim in this stream. They are not wealthy and they are
18   not white, but this permit is imperative to their health
19   and safety.
20   Also since I've been at this job I've seen
21   things floating in the Harbor that I never wished to
22   see. I've seen every type of trash. I've seen used

12

1   tampons and condoms. I've seen solidified balls of
2   grease from the sewage system that end up in the Harbor
3   through the stormwater outfalls. These items were
4   floating only feet away from where children get sailing
5   lessons.
6   I've also seen the Harbor change into every
7   color of the rainbow and smelled all sorts of
8   unpleasant smells. I've seen algal blooms and fish
9   kills and crabs scurrying onto the shoreline. This is
10   all within the past six months. This permit is
11   imperative to addressing root pollution causes of these
12   disturbing events.
13   Now, with that background, I'd like to address
14   two specific points on the permit. First, MDE is
15   required to issue a permit that ensures compliance with
16   water quality standards. Currently, this permit does
17   not do so. We are well aware that these waterways are
18   currently out of compliance with water quality
19   standards. They are unsafe for human contact and
20   recreation, and they are unsupportive of a healthy
21   ecosystem.
22   If there is any hope of reducing pollution to

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13

1   healthy levels, this permit must explicitly prohibit
2   any discharges from the stormwater system that
3   contribute to exceedances of water quality standards.
4   This will provide the City the necessary discretion in
5   deciding how to meet that requirement, and will be easy
6   to monitor to determine compliance with the permit.
7   This will also ensure that the permit not only intends
8   to meet water quality standards, but it actually
9   results in real attainment of those standards.
10   This permit should also include enforceable
11   and specific requirements and deadlines in order to get
12   us to where we need to be. It also must include
13   checkpoints for determining whether the City's actions
14   are actually resulting in improvements to the water
15   quality. And if they are not, it must contain
16   requirements for what to do then, otherwise we will be
17   in the same place five years from now as we are today,
18   not understanding why all the work and good intentions
19   and resources we expend do not result in actual
20   improvements in the waterway.
21   Similarly, this permit must require
22   compliance with waste load allocations for the Bay TMDL

14

1   and local TMDLs. An enormous amount of resources, both
2   time and money, have gone into developing the Bay TMDL,
3   with the intention of making this different than all
4   the past Chesapeake Bay agreements and other plans
5   which utilized millions of taxpayer dollars, and then
6   resulted in no noticeable changes to water quality.
7   The key to making the Bay TMDL different is
8   making it enforceable and, as MDE has made clear, the
9   key to making the Bay TMDL enforceable is through the
10   MS4 permits. If this permit does not contain
11   enforceable, specific requirements, then all that
12   well-intentioned time and money going into the Bay TMDL
13   and WIPs has been utterly wasted.
14   We appreciate that MDE included a list of all
15   the TMDLs applicable to Baltimore's waterways as an
16   attachment to the permit. Now we need the next step of
17   requiring compliance with the applicable waste load
18   allocations. We also need specific and enforceable
19   benchmarks and deadlines for attainment of those
20   allocations.
21   In conclusion, there is a lot riding on the
22   stringency and effectiveness of this permit. It is

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1   vital that we bridge the gap between theory and reality
2   by making this permit enforceable, and ensuring that it
3   results in real attainment of water quality standards
4   and waste load allocations. It is well worth the
5   additional time and effort to get this permit right.
6   Thank you very much.
7   MR. CLEVENGER: Thank you, Tina. David
8   Flores.
9   MR. FLORES: Good morning. My name is David
10   Flores. That's D-A-V-I-D, F-L-O-R-E-S. I am the Water
11   Quality Manager for Blue Water Baltimore and a lifelong
12   citizen of my hometown, Baltimore City.
13   Our City's streams and rivers continuously
14   suffer the degradations of dry weather illicit
15   discharges conveyed from its municipal separate
16   stormwater sewer system, rendering the Harbor and its
17   tributaries unfit for bodily contact or fishing. The
18   streams and rivers are choked with trash.
19   Overnutrification results in annual fish kills and
20   blooms of harmful, toxic algae. Chronic violations of
21   erosion and sediment control standards result in
22   massive discharges of sediment pollution, and known dry

16

1   weather sewage contaminations continue unabated for
2   years and even decades.
3   The pitiful condition of our waterways is
4   perhaps best illustrated by the City's own water
5   quality data. Of 34 in-stream sampling locations
6   monitored by Baltimore City in 2009 and 2010, 88
7   percent of these stations exceeded the state's weakest
8   standard for fecal bacteria, the infrequent Full Body
9   Contact Recreation rule, at least one-third of the time
10   during dry weather only. Fifty-nine percent of
11   sampling stations exceeded this water quality standard
12   in more than half of dry weather samples collected.
13   These fecal bacteria are not reaching our
14   waterways from wildlife and pet sources. These are, as
15   MDE's own bacterial source tracking studies of the Jones
16   Falls and Gwynns Falls confirmed, overwhelmingly fecal
17   bacteria from human sources from illicit sewage
18   discharges via the MS4 infrastructure.
19   Therefore, the majority of Baltimore's
20   streams, rivers, and Harbor routinely exceed standards
21   for safe contact, standards established to protect the
22   health and welfare of Marylanders and the citizens of

4 (Pages 13 to 16)

17

1   Baltimore. Often those poorest and underrepresented
2   among us continue to unknowingly fish these human
3   sewage contaminated waters, risking exposure to
4   infections from hepatitis and streptococcus, among
5   other waterborne pathogens and toxins. The greater Bay
6   community fares no better from Baltimore's status quo.
7   But the City's own monitoring, which is not
8   mandated by their current MS4 permit, nor the proposed
9   draft permit, does not go far enough to afford
10   protection to Baltimore's citizens and, importantly,
11   afford its community the opportunity to track watershed
12   restoration progress. MS4 permit requirements must be
13   in place to monitor toxics, nutrients, bacteria and
14   other water quality pollutants comprehensively across
15   Baltimore's waterways to track progress and compliance
16   with the City's total maximum daily loads, as well as
17   provide timely and accurate information to the public
18   on levels of contamination.
19   Requirements to monitor only one sub-watershed
20   or only one outfall for trash and debris loadings are
21   not only an inappropriate level of accountability or
22   response to the systemic-scale of contamination, but

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1   they are also clearly scientifically flawed
2   methodologies.
3   The MS4 mandated Illicit Discharge Detection
4   and Elimination and Erosion and Sediment Control
5   programs also do not go far enough to protect our
6   waterways. Of those major outfalls that currently
7   require annual IDE screenings and source investigations
8   many of the largest offenders continue unabated for
9   years, and even decades, after they were first
10   identified by MS4 mandated IDE programming, citizen
11   stewards and researchers.
12   Remarkably, comprehensive IDE studies
13   performed by the Center For Watershed Protection over
14   the past several years in Baltimore's watersheds have
15   demonstrated that the majority of illicit discharge
16   contamination comes not from major outfalls but from
17   minor outfalls, which are not screened by the City's
18   program under current or proposed MS4 requirements.
19   Additionally, the Center estimates that the
20   majority of bacteria TMDL reductions and large portions
21   of nutrients load reductions can be met by enhancing IDE
22   screening and source investigation practices, routinely

19

1   screening minor outfalls and eliminating their illicit
2   discharges. The scale of the illicit discharge
3   contamination befits revised MS4 requirements for
4   expanded screenings and enhanced methodologies.
5   Numerous violations of Erosion and Sediment
6   Control standards by City contractors, some going as
7   far as installing intentional diversions to perimeter
8   controls, as well as the repeated failure by City
9   employees to install storm drain BMPs when responding
10   to street-level infrastructure repairs, leaves much to
11   be desired for establishing a culture of ESC
12   compliance. Unsurprisingly, many construction sites are
13   not inspected for compliance on a weekly basis or
14   during storm events, and penalties and stop-work orders
15   are woefully under-assessed against repeat violators.
16   Compliance with local and Bay TMDLs and water
17   quality standards and maintenance of safe recreational
18   waterways are contingent upon rigorous, comprehensive
19   monitoring by requirement of the MS4 permit. Please
20   hold us accountable to our pollution. Thank you for
21   your attention and consideration.
22   MR. CLEVENGER: Thank you, David. Rebecca

20

1   Hammer.
2   MS. HAMMER: Good morning. My name is
3   Rebecca, R-E-B-E-C-C-A, Hammer, H-A-M-M-E-R. I'm
4   testifying on behalf of the Natural Resources Defense
5   Council. NRDC is a national non-profit environmental
6   organization with over 25,000 members and activists in
7   the state of Maryland. On behalf of these members, NRDC
8   works to protect and restore water quality in Maryland
9   and throughout the Chesapeake Bay region.
10   The Baltimore City MS4 permit that is the
11   subject of this hearing is critically important to
12   Maryland's efforts to clean up water bodies in
13   Baltimore and, further downstream, the Chesapeake Bay.
14   As MDE itself has noted, MS4 permits like this one
15   serve as the regulatory backbone of stormwater
16   pollution reduction efforts. Unfortunately, however,
17   this draft permit falls short of what is needed to
18   successfully restore local waters.
19   First, and most critically, the permit fails
20   to ensure compliance with water quality standards and
21   total maximum daily load, or TMDL, waste load
22   allocations. While the federal Clean Water Act and

5 (Pages 17 to 20)

21

1   Maryland law both require all stormwater permits to
2   contain limitations necessary to ensure that water
3   quality standards will be met, this permit does not do
4   so.
5   In fact, the permit specifically excuses
6   Baltimore City from attaining water quality standards or
7   waste load allocations as long as the City complies with
8   the other requirements contained within the permit.
9   This approach to water quality standards compliance may
10   be acceptable in certain cases when a permit's
11   conditions set out a clear and enforceable path toward
12   attainment of those standards by a certain future date,
13   such as through a compliance schedule or implementation
14   plan.
15   However, the Baltimore City permit lacks an
16   enforceable compliance schedule or plan. It does not
17   require the City to meet its waste load allocations
18   either immediately or by any future date, only to show
19   progress. It requires permittees to include certain
20   schedules in their restoration plans, but this provision
21   could easily be interpreted to require schedules for the
22   implementation of projects and programs, not for

22

1   attainment of waste load allocations or interim
2   pollution reduction targets.
3   Finally, the permit makes no provision for the
4   attainment of water quality standards in impaired water
5   bodies that lack TMDLs. The permit should be revised to
6   make clear that discharges from the City's MS4 that
7   cause or contribute to the violation of water quality
8   standards are prohibited, and to require that the City
9   attain waste load allocations by a date certain, in
10   compliance with an implementation plan that the
11   permittee will develop and MDE will approve. This plan
12   should contain enforceable interim milestones so that
13   the City is held accountable for staying on track.
14   Second, the permit allows Baltimore to
15   implement impervious surface area restoration
16   techniques that are ineffective. The restoration of
17   existing impervious surface area is a key requirement
18   in any MS4 permit, as water body degradation is
19   directly linked to the amount of imperviousness in a
20   watershed.
21   However, the MDE guidance document referenced
22   in the permit's restoration provisions provides

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1   restoration credit for the implementation of practices,
2   such as extended detention, that are known to be
3   ineffective or only marginally effective at reducing
4   stormwater volume and pollutants. This approach will
5   not lead to attainment of water quality goals, either
6   in local water bodies or the Chesapeake Bay.
7   We urge MDE to update this guidance
8   expeditiously to require the use of environmental site
9   design, or ESD, practices that reduce stormwater runoff
10   volume or, alternatively, to delete the reference to
11   the guidance from the permit and include an ESD
12   requirement within the permit itself.
13   Third, and finally, the permit's monitoring
14   requirements are insufficient to track progress. While
15   the permit generally requires the City to use
16   monitoring to assess its progress, its specific
17   monitoring requirements direct the City to
18   comprehensively monitor only one water body and for
19   that water body, only at one outfall and associated
20   in-stream station.
21   This requirement is completely inadequate to
22   track the performance of restoration programs and

24

1   consistent attainment of water quality standards and
2   TMDLs. The permit should require routine monitoring of
3   all water bodies subject to TMDLs sufficient to assure
4   continual attainment of waste load allocations and
5   interim benchmarks and milestones.
6   On all three of these metrics, the Baltimore
7   City MS4 permit falls short of the example set by EPA
8   Region III in the Washington, D.C., MS4 permit issued
9   last fall. EPA has stated that it intended for the
10   D.C. permit to serve as a model for other permits in
11   the Chesapeake Bay watershed. Yet while the D.C.
12   permit directs the permittee to develop an enforceable
13   schedule and plan for meeting waste load allocations by
14   a date certain, use green infrastructure practices to
15   restore existing impervious areas, and develop a
16   comprehensive plan for monitoring all major watersheds
17   that is adequate to track progress with TMDL
18   objectives, this draft permit does none of these
19   things.
20   We urge MDE to strengthen this permit
21   significantly before issuing it in its final version.
22   Doing so will ensure that Baltimore City, and other

6 (Pages 21 to 24)

25

1   Maryland jurisdictions whose permits will be modeled on
2   this one, do their part to clean up local water bodies
3   and the Chesapeake Bay. Thank you.
4   MR. CLEVENGER: Thanks, Rebecca. Diane
5   Cameron.
6   MS. CAMERON: Good morning. My name is Diane
7   Cameron and that is spelled D-I-A-N-E, C-A-M-E-R-O-N,
8   and I am here to testify on behalf of the Audubon
9   Naturalist Society and the Natural Resources Defense
10   Council, and I know that both organizations are members
11   of the Maryland Stormwater Consortium.
12   The focus of my testimony today is a single
13   point, which is that in our view environmental site
14   design must be the required baseline approach for
15   stormwater retrofits and the watershed restoration
16   section of the Baltimore MS4 permit. I have at least
17   five reasons why we would ask MDE to strengthen that
18   section by focusing the requirements for restoration and
19   retrofitting solely to be based upon environmental site
20   design.
21   And so the five reasons I am giving are,
22   number one, that reduction of stormwater volumes and

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1   replication of predevelopment hydrology are provided by
2   environmental site design measures. Reason number two,
3   we have a precedent with the District of Columbia MS4
4   permit that was issued by EPA in 2011.
5   Number three, our reading of Maryland
6   stormwater law and code indicate that environmental site
7   design is to be the baseline and the norm for stormwater
8   management. And reason number four, we have already
9   been witnessing permittee response on the part of
10   Montgomery County and some indications from Prince
11   George's County as they prepare to receive their MS4
12   permit. And our fifth reason is economic
13   considerations.
14   I will briefly explain each of these reasons.
15   In our reading, both of the law and in the technical
16   literature, only ESD retrofits provide significant
17   reductions in stormwater discharge volumes from
18   impervious surfaces. Connected to this outcome is
19   another function of ESD practices, which is reduction in
20   sediment discharges resulting from stream channel scour
21   due to excessive stormwater volumes and velocities.
22   We also, in my testimony, are requesting to

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1   receive MDE's documentation that supports your policy
2   that allows the use of detention ponds as a restoration
3   measure. We would much better understand the basis for
4   MDE's current policy on this point.
5   We also want to note in connection with this
6   point, that when comparing the performance of standard
7   practices like detention ponds with ESD retrofits, it's
8   crucial that we make an apples-to-apples comparison.
9   And what I mean by that is that we are
10   sometimes now seeing -- and in fact in MDE's draft
11   restoration guidance document we are seeing what I
12   consider an apples-to-oranges comparison when detention
13   ponds and similar detention structures are compared to
14   other methods, including things like bioretention, green
15   roofs, permeable pavement and site design measures with
16   respect to how much stormwater each of those practices
17   stores.
18   In fact, I consider that apples-to-oranges
19   because the environmental site design practices are
20   designed with a different function in mind. They are
21   not designed primarily to temporarily store stormwater.
22   They are designed to reduce stormwater through a variety

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1   of measures, including infiltration and
2   evapotranspiration.
3   In other words, they are designed to achieve
4   actual reduction in stormwater on a site-by-site basis.
5   And so what we would request on this point is that MDE
6   make an apples-to-apples comparison so that, for
7   example, reduction of stormwater, reduction of actual
8   volume, would be the comparison unit between detention
9   ponds and other practices and ESD. And I would be happy
10   to provide more information to you on that point.
11   The District of Columbia precedent for the
12   District of Columbia MS-4 permit. We point to that
13   precedent because it's a permit in this region that
14   establishes clear numeric enforceable requirements for
15   green infrastructure retrofits, and EPA has stated that
16   it intends for that permit to serve as a model for other
17   permits in the Chesapeake Bay region.
18   My third supporting point is that our reading
19   of Maryland stormwater law and code is that it requires
20   ESD not only for new development and redevelopment
21   projects, which indeed it does require ESD for those
22   projects, but our reading is that it also requires ESD

7 (Pages 25 to 28)

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1 to be the basis for all stormwater management, thus
2 including retrofitting.
3   And so, to quote from Maryland code, the
4 Maryland Environment Article, Section 4-203(b) states,
5 "For stormwater management in Maryland, MDE must require
6 the implementation of environmental site design to the
7 maximum extent practicable." So that phrase is for
8 stormwater management in Maryland. That's a broad
9 phrase that, again, in our view, includes retrofitting.
10   I just will briefly finish explaining my
11 final two points. The likely permittee response is
12 another important consideration because in the
13 open-ended way that the watershed restoration section
14 of the draft permit for Baltimore is written, we
15 believe that based on what we've seen in the
16 implementation of Montgomery's permit that has a
17 similarly open-ended watershed restoration provision,
18 that no more than about 20 percent of the permit's
19 required impervious acres that must be addressed with
20 restoration will end up being addressed through
21 environmental site design.
22   And the reasons for this are that, really, it

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1 boils down to that since the permit for Baltimore is now
2 drafted and as issued to Montgomery does not actually
3 require ESD to be used in any particular way or for a
4 portion of the effort. Therefore, it's up to the
5 permittee, and when it's left up to the permittee the
6 managers are saying that pond retrofits are cheaper and
7 they are going to go for what they perceive as the
8 cheapest approach.
9   So in the absence of any numeric requirement
10 for ESD retrofits in the permit, and when you combine
11 that with published cost data, that also needs to be
12 updated. The permittees are falling back on their
13 historical reliance on ponds, tanks, and filters for the
14 lion's share.
15   There is a growing body of literature that's
16 actually a robust body of literature that shows that ESD
17 retrofits and ESD practices compare favorably or at
18 least on par with conventional practices when you do a
19 more detailed analysis for a municipality.
20   And that leads to my fifth point. When
21 looking at economic considerations for municipal
22 permittees, there are low and moderate cost ESD

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1 practices such as tree plantings and conservation
2 landscape, also called bayscaping that are affordable
3 and that there are many other benefits that accrue to
4 property owners and municipalities when they implement
5 ESD practices. So there are many economic reasons why
6 MDE should strengthen this part of the permit to require
7 environmental site design as the basis for restoration.
8   So in my conclusion, we ask MDE to require
9 environmental site design retrofits through changes to
10 the watershed restoration section and we believe that if
11 MDE does not make this change, then what we'll continue
12 to see in Maryland is a delay in the widespread use of
13 environmental site design. We believe that the
14 Stormwater Management Act is intended to accelerate and
15 create widespread use of environmental site design.
16 Thank you very much.
17   MR. CLEVENGER: Thank you, Diane. For the
18 record, Diane has provided written testimony. Alison
19 Prost.
20   MS. PROST: Hi, for the record my name is
21 Alison Prost. I'm the Maryland Executive Director for
22 the Chesapeake Bay Foundation. I want to start off by

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1 thanking the Department and Baltimore City for the work
2 thus far on the permit.
3   We've had many meetings, conversations, letter
4 exchanges, and I do think that some of our concerns are
5 reflected in the draft permit. I know that a ton of
6 work is going into this. So while I do see this permit
7 as an improvement over past iterations, there are
8 additional changes that we think have to be met in order
9 for this permit to fully help support the new Bay TMDL
10 and also in order to be in compliance with federal and
11 state law.
12   I'm going to highlight three areas today. I'm
13 going to turn in my written testimony and then the
14 Chesapeake Bay Foundation will also be submitting more
15 extensive comments on the record before the end of the
16 comment period. So my three points today are not
17 exhaustive, but the ones I would like to highlight at
18 this time.
19   The first. In order to comply with Maryland
20 law, the permit must be revised to explicitly ensure
21 that existing state water quality standards will not be
22 violated.

8 (Pages 29 to 32)

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1   This is something that the Chesapeake Bay
2 Foundation has been bringing up for at least the last
3 six years. We know that an MS4 permit is different
4 than other discharge permits, the very iterative
5 process. However, we believe that there are still ways
6 to better incorporate water quality standards even if
7 they will not be met in one permit cycle. We think
8 that this is a requirement under Maryland law that the
9 permit that there is works towards meeting these water
10 quality standards. Again, even if in not one permit
11 cycle.
12   The second point that others have made today
13 is that there has to be a more robust -- the permit must
14 provide for a more robust and statistically significant
15 monitoring program that will allow the Department to
16 effectively monitor stormwater runoff and ensure that
17 the permit requirements are, in fact, working to reduce
18 pollution.
19   Currently, the permit has a provision to only
20 look at one small watershed to determine the
21 effectiveness of stormwater management, a single
22 outfall, and a single in-stream station. We think this

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1 is completely inadequate to make necessary adjustments
2 of how the permit is working or not and we are unclear
3 with such a monitoring requirement how the City could
4 even know if they are meeting water quality standard as
5 required by state law.
6   The third point. Given the intent of the
7 Department, the permit should more clearly incorporate
8 total maximum daily loads and their waste load
9 allocations rather than merely incorporating a list of
10 impaired waters by reference. The permit also does not
11 currently require that applicable waste load
12 allocations actually be met, nor does it require the
13 designation of specific milestones and benchmarks which
14 are necessary for the assessment and enforcement of
15 restoration plans for getting there.
16   There are multiple places in the permit that
17 mention progress towards meeting waste load
18 allocations. We feel that it is critical that the
19 permit actually require meeting those benchmarks and
20 have clear benchmarks towards meeting the waste load
21 allocations as opposed to just an aspirational goal of
22 progress towards.

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1   Again, we feel the permit is a step in the
2 right direction, but since we all know that future
3 permits are going to be based upon this, we feel that
4 there has to be critical changes to make sure that the
5 Bay TMDL is met, local water quality is met, and that it
6 is an enforceable permit. Thank you.
7   MR. CLEVENGER: Thanks, Ms. Prost. Apologies.
8 Dan Smith.
9   MR. SMITH: Good morning. Thank you. I'm Dan
10 Smith. I live in Cheverly. I'm here representing
11 Friends of Lower Beaverdam Creek, a non-profit volunteer
12 organization that works to restore and advocate for one
13 of the more polluted streams in the Anacostia Watershed.
14 And I'm here because we're downstream of Baltimore. And
15 what is done here for water quality will directly -- it
16 affects us.
17   Now, literally, we're not downstream in the
18 watershed, but in terms of the regulatory process right
19 now we are clearly downstream because this is a permit
20 in which there will be nine permits issued and as a
21 template, or in the materials that have been put out
22 about this, the future permits will be modeled after or

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1 similar to this one. So it's important to us to get it
2 right here or to address some of the similarities that
3 we have in our watershed that we believe also are
4 similar here.
5   So first I would just like to say, what is the
6 goal? And just to keep in mind that to us it's
7 pollution reduction in a way that also achieves
8 biological integrity and aquatic life viability in our
9 waterways.
10   The Anacostia River and Watershed, including
11 Lower Beaverdam Creek and Quincy Run Watersheds, are
12 very active and are significantly impaired in the
13 reduction of stormwater runoff which this permit will
14 greatly assist and is really critical for us. We think
15 that's very similar to conditions in much of Baltimore.
16   So we're dealing with the inner Beltway,
17 really developed areas around Bladensburg and up to
18 Largo and Landover where the conditions are similar.
19 So I think, unfortunately, redevelopment in some of our
20 counties in our area under the 2007 Stormwater Act, is
21 not -- the standards under that are not going to affect
22 in a significant way the redevelopment in the water

9 (Pages 33 to 36)

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1   quality as we had hoped.
2   There are so many grandfathered projects that
3   will be played out over the next five years that the new
4   standards will not have that big of an impact. That is
5   why it is very important that in the projects that are
6   included under these new activities be done well and be
7   done effectively, because these are going to be the
8   anchor projects that we depend on for really making that
9   next big step for water quality improvement and that
10   also can be models for the other activities that will
11   occur in the private sector and by the public sector
12   through other programs to come.
13   So we feel that the attention must not be the
14   default treatment, but environmental site design should
15   be that. We don't have room -- at least it appears to
16   me that applying the technology, we don't have the room
17   in these redevelopment areas for achieving our goals,
18   using retention ponds in these areas. And that if we
19   are trying to apply those and sort of wedge those in and
20   shoehorn a lot of those applications into some of these
21   areas, we actually could create a public backlash
22   against the whole program.

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1   We want strategies and tools that work, that
2   the public will be appreciative of. Green
3   infrastructure is that. Green infrastructure will be
4   embraced by people who see green streets. They'll see
5   redevelopment that is hopeful and positive and
6   optimistic. The old technologies that we are applying
7   are not that and we think that this generation of
8   permits needs to raise the bar higher, that this
9   approach is not optimistic and hopeful enough.
10   So I'm just saying we're in a major transition
11   period of stormwater management. The 2007 Act -- of
12   course, this year with the legislature requiring local
13   watershed protection and the restoration programs,
14   including the Stormwater Remediation Fee and Fund to be
15   implemented by July 1st. In our county, Prince
16   George's, the County Council two weeks ago had a bit of
17   a turnaround. We had a unanimous vote to approve a
18   residential and commericial property retrofit rebate
19   fee.
20   There's been a lot of work to set the WIP plan
21   and TMDL strategies and I think the latest estimates are
22   that the county would be putting $700 million into that

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1   by 2025. This permit is important as a framework for
2   the entire approach that we're taking here. It sets not
3   only specific goals for the actions that are
4   specifically within the permit, but it sets a tone and
5   it's a signal to the communities on the other efforts.
6   So I would argue that this goes beyond the
7   impacts that you've even articulated, which are
8   significant, and then it will affect the way the $700
9   million Prince George's has invested. It will affect
10   the way that the private sector and individual
11   homeowners and commercial businesses respond even as
12   they are part of it.
13   So if we're trying to raise the bar and launch
14   us all off into a new and better direction with higher
15   standards, this really can help do that. And along then
16   with that we'll get a lot of collateral and other
17   support and benefit that is so sorely needed, because
18   even the dollars we're investing and the 10 percent or
19   the 20 percent of the watershed retrofits that are being
20   proposed here are not enough to clean up. This is just
21   out of the starting gate.
22   In conclusion I would say that we're looking

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1   for a partnership in which the state and the permit is a
2   really optimistic and hopeful one and raises the bar and
3   gets us beyond and out of some of the older practices
4   that are much less effective, and that if we look back
5   in five years or seven years or ten years at what we
6   have invested, we don't want to be in a situation
7   saying, we could have done it so much better. If we
8   would have done that earlier, the impact would be so
9   much greater now.
10   So let's do it at this point, to look ahead to
11   create as much positive momentum to achieve these goals
12   faster and to bring relief to our communities and our
13   economic conditions. Thanks.
14   MR. CLEVENGER: Thank you, Dan. Cary Coppock.
15   MR. COPPOCK: Good morning and thank you for
16   hearing my testimony. My name is Cary Coppock, C-A-R-Y,
17   C-O-P-P-O-C-K. I represent the Anacostia Watershed
18   Citizens Advisory. I'm a resident of Prince George's
19   County.
20   The Anacostia Watershed Citizens Advisory is
21   18 citizen members of the Anacostia Watershed
22   Partnership and is a coalition of regional agencies,

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1   non-profits and for profit companies prioritizing the
2   restoration of the Anacostia River. So we are citizens.
3   I don't have a political dog in this fight or anything.
4   We respectfully ask that you accept and
5   incorporate all the comments of the Maryland Stormwater
6   Consortium and those of Ms. Minerva that you will have
7   in hand at the end of this session. As a private
8   citizen, responsibilities in my day job for soil and
9   hydrology research, I share the opinion of the coalition
10   and Ms. Minerva that the intent and result of the MS4
11   permits must be unequivocal in forcibility by
12   responsible agencies. Any other precedent by unclear
13   language or failure to properly fund the enforcement
14   compromises our commitment to a cleaner Chesapeake Bay.
15   So among the other excellent comments from the
16   Consortium, it was requested that more waterways be
17   monitored to reflect progress in the watershed.
18   Agencies committed to cleaner water will welcome this as
19   an opportunity to justify the resources for funding
20   water quality improvements and demonstrate their success
21   or failure of their chosen methods and move forward
22   afterwards.

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1   There's no shortage of hydrology expertise in
2   Baltimore. I know you don't need me to come up from
3   Prince George's County and tell you how to run things,
4   but my concern here is that this will be a precedent
5   that will come our way, which we understood that's the
6   plan. I wasn't really sure about that when I wrote it,
7   but it is now.
8   So, in addition, I urge you to consider the
9   burden on other jurisdictions if we don't have this
10   enforceability written in. If your MS4 commitment does
11   not make a concise connection between enforceable water
12   quality standards, a weak connection to enforcement will
13   trigger a wave of effort for those who fear strong
14   standards to lobby every jurisdiction to adopt similar
15   rules. We experienced this. Prince George's County is
16   still reeling, and other counties are still reeling,
17   from the wave of effort by the representatives of --
18   really, these are the guys who come forward and want to
19   fight ESD. In my circle we call it low-rung
20   development.
21   But I know there's reasons sometimes, but
22   we're afraid that a lack of connection will be codified

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1   in local ordinance, which is the way it worked for the
2   2007 Stormwater Management Act and then the enforcement
3   code was codified from county to county. This happened
4   in Prince George's County, so we wound up with a .5-inch
5   standard over half the paved area. This has been
6   frustrating for us and now we believe we're fighting an
7   uphill battle that could have been averted.
8   So I'm not a professional advocate. I'm
9   actually on vacation today. If it were not for the fear
10   that I would be fighting this battle for another three
11   years, which I've been embroiled in for three years now
12   or more, I really, like everyone else, I would probably
13   be doing something else.
14   And quickly, I'm learning from reading that
15   there's a doubt that there's a connection between
16   stormwater volume and wildlife quality -- I'm losing my
17   word right now, but the aquatic life preservation. And
18   that's apparently number one as far as the designated
19   uses, aquatic life. That's the word I was looking for.
20   There is a connection.
21   Every time we have a large, even a
22   medium-sized storm, the scouring out of this material

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1   wrecks the nests of the fish and the place where these
2   critters live. And the volume is a very important issue
3   we should address, too. Ms. Minerva does an excellent
4   job of addressing that in her testimony.
5   So another worthy priority is transparency
6   that I noticed in the coalition right up front.
7   Baltimore has a great tradition of holistic
8   environmental assessment. The Baltimore Ecosystem
9   Survey is an excellent coalition of regional
10   professionals, many of whom are committed to
11   environmental sustainability. Most members have the
12   balance to recognize the multiple priorities of urban
13   watershed management and they will serve your City well
14   as you move forward for cleaner water enforcement.
15   I urge you to make public your progress
16   towards developing and meeting your MS4, a strong and
17   enforceable MS4 of water quality standards, and to
18   enable these regional professionals in the effort.
19   Baltimore City is positioned to be a great example of
20   urban support for the Chesapeake Bay restoration. So
21   thank you for accepting testimony of the Anacostia
22   Watershed Citizens Advisory and we urge you to

11 (Pages 41 to 44)

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1   incorporate the Maryland Stormwater Consortium comments
2   in full, and those of Ms. Minerva. Thank you.
3   MR. CLEVENGER: Thank you, Cary. Richard
4   Klein.
5   MR. KLEIN: Good morning. My name is Richard,
6   R-I-C-H-A-R-D, Klein, K-L-E-I-N. I'm President of
7   Community Environmental and Defense Services. We've
8   helped quite a few residents of Baltimore City over the
9   years deal with a variety of concerns related to growth,
10   particularly aquatic resource impacts.
11   What I would like to talk about very briefly
12   are opportunities to make changes in the MS4 permit that
13   are going to make it a lot easier for us citizens and
14   watershed advocates to provide the Department and
15   Baltimore City with the public support that's been
16   missing for so many years, to give the MS4 permit a
17   decent shot at achieving the water quality goals and to
18   achieve the larger goal of restoring the Chesapeake Bay.
19   Frankly, between environmental site design,
20   which is going to increase the number of BMPs per site
21   by 10 to 20 fold, and the tripling of the frequency of
22   inspections that's going to be required for filtering

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1   BMPs, which most ESD practices are, I don't see any way
2   in God's blue sky that we're ever going to have the
3   inspectors of the other resources to monitor all of
4   those stormwater BMPs out there and keep them maintained
5   in a fully working condition.
6   Frankly, the only scenario that seems like it
7   has any possibility of keeping all those BMPs working is
8   if we can somehow achieve a dramatic increase in the
9   level of public participation, that is engaging
10   citizens, those who live near BMPs and others that are
11   concerned about aquatic resources, in keeping an eye out
12   for maintenance issues and, frankly, doing a lot of the
13   simple maintenance themselves, like replacing mulch in
14   bioretention facilities.
15   We've been experimenting with this in the
16   Severn River watershed and, frankly, we've had quite a
17   bit of luck. We can train a volunteer in half an hour
18   on how to evaluate the condition of a bioretention
19   facility and a typical team of volunteers can evaluate
20   three facilities in an hour. So I think there's a
21   tremendous potential there, but not only for providing
22   additional information on BMPs that need maintenance,

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1   but to provide government agencies with the public
2   support they need to ensure that maintenance is done
3   properly.
4   Here are the things I would like to see you
5   change in the MS4 permit that's going to make full
6   public participation, not token public participation,
7   more of a reality. As you know, I just did a study of
8   the StormPrint resource, a fantastic resource that the
9   Department created about a year ago. It's the only
10   online source of information for citizens in Maryland on
11   what stormwater BMPs are located in the area. Again,
12   fantastic resource, but it has a lot of problems.
13   It appears that the underlying database, the
14   Maryland urban BMP database, has a lot of inaccuracies
15   in it. Based upon the limited study that I did, and I
16   have a copy of it here for you, based upon the limited
17   study I did in the ten MS4 jurisdictions, it looked like
18   overall the error rate is 40 percent. That is, only 60
19   percent of the BMPs out there in the areas I looked at
20   are either correctly located or correctly labeled with
21   StormPrint. That inaccuracy has to be corrected in
22   order to facilitate public participation.

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1   In Baltimore City, the error rate is much
2   higher, 89 percent. That is, only 11 percent of the
3   BMPs we looked at in Baltimore City were shown
4   accurately on StormPrint. Since the underlying database
5   also serves as the basis for the modeling that's used in
6   the Chesapeake Bay program, TMDLs, WIPs and MS4
7   permits, I'm deeply concerned that those same
8   inaccuracies carry through to estimates of pollutant
9   loadings of the effects of various management strategies
10   to achieve those goals.
11   These are the changes I would like to suggest.
12   Obviously, we need to greatly improve the accuracy of
13   StormPrint. I know the Chesapeake Bay program has a BMP
14   Verification Committee right now. We found that, again,
15   in the Severn watershed, volunteers can be extremely
16   effective in going out and locating BMPs and verifying
17   their location, their type, even their maintenance
18   needs. So that opportunity exists.
19   But to seize that opportunity we have to not
20   only improve the accuracy of StormPrint, we have to do
21   some other things, too. You ought to include the date of
22   the last inspection of each BMP in StormPrint. You also

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1 ought to include something that talks about the
2 condition of that BMP based upon that last inspection
3 and if the BMP was found to have problems, the date by
4 which those corrections are going to be made. I can
5 provide you examples of existing databases that do that
6 very thing right now, but for other media.
7 In addition, you ought to consider something
8 similar for construction sites. In addition, the annual
9 MS4 reports need to be posted online, but not just the
10 reports, the appendices also which frequently contain
11 the information citizens need to go out and verify that
12 the improvements claimed in MS4 permits are actually
13 being achieved.
14 Finally, I agree with everyone else who's
15 spoke about environmental site design. I think it's the
16 best hope through the redevelopment provision of
17 restoring all those waters in the City that are
18 currently degraded. Frankly, I don't see anything other
19 than the redevelopment progress whereby existing
20 impervious area is then retrofitted with
21 highly-effective BMPs. I don't see anything else that's
22 going to allow us to achieve the goal of restoring the

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1 City's waters.
2 The ESD Concept Plan should be posted online,
3 along with the narratives, along with information
4 regarding any waivers, variances or other relevant
5 documents. By posting that information online, that's
6 going to be a lot easier for us citizens to monitor how
7 well ESD is being applied and then provide you with
8 public support if it turns out that full application of
9 ESD isn't happening. Thank you for the opportunity.
10 MR. CLEVENGER: Thank you, Richard. For the
11 record, he's provided us with documents. Andy Galli.
12 MR. GALLI: Andy Galli, A-N-D-Y, G-A-L-L-I,
13 Maryland Program Coordinator with Clean Water Action.
14 Thank you for the opportunity to speak on this permit
15 today.
16 The Clean Water Action is a national
17 organization. We also work in a number of states, not
18 all 50 states, but many of them. One of them is
19 Maryland, so my responsibilities in addition to national
20 issues are state issues. But also we work in local
21 municipalities and counties. My office happens to be in
22 Baltimore. And we even drill down deeper to

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1 sub-watersheds.
2 My responsibilities in Baltimore City pertain
3 to a number of communities in sub-watersheds in
4 Baltimore City and they are right over there. They are
5 Westport, Cherry Hill, Sharp-Leadenhall, Mount Winans,
6 Lakeland, Brooklyn, Curtis Bay, and on the other side we
7 work in Armistead Gardens.
8 For me, how do I connect what is in the permit
9 to whether the points that are technical aspects will be
10 successful? What I look at, because I'm not a technical
11 expert, is I look at how these things may affect those
12 local communities that I work in. Some of them are
13 primarily impervious surface, but each one of them has
14 some local streams and outfalls in the neighborhoods.
15 The other I suppose I have to review is
16 history, where we've come from and where we are today.
17 We support many of the comments, or all the comments in
18 fact, from Bruce Gilmore down to Richard Klein. We
19 believe a lot of their situations -- or all of their
20 suggestions, I'm sorry, should be written in as changes
21 to this permit to strengthen that and somewhat support
22 the local communities.

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1 I believe that we have a better opportunity to
2 implement many of those suggestions in as much as we
3 have a new TMDL, we have a Watershed Implementation
4 Plan. But more important to support these, because some
5 of the arguments, I believe in the past, have been the
6 costs of many of those suggestions of programs and
7 policies.
8 I believe the new Watershed Restoration Act
9 that was passed just recently that will raise money in
10 the local communities is especially targeted, or only
11 targeted, to the MS4 Phase 1 communities, which we are
12 reviewing this permit now, will have a direct impact
13 into making sure that we can implement all of these
14 aspects in programs to improve this.
15 I guess with regards to looking at the history
16 of where we've come from, we've heard about a permit in
17 '93, '99, 2005. We're now in 2012. We heard about
18 water testing. We've heard from David and Tina and
19 others and we just don't seem to be getting it. So
20 based on this history I think we need to take the permit
21 up a notch and, of course, it's important to be hopeful
22 and optimistic, which I agree in, but I would say we

13 (Pages 49 to 52)

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1 have the opportunity to write in some surety into the
2 permit. Let's be sure.
3   Let's not just be hopeful, but let's be sure
4 and try to get that level of surety where we are going
5 to create clean water for Baltimore, and this permit
6 being probably a template for other counties' clean
7 water throughout Maryland.
8   With regards to a little bit of the history,
9 we've also heard about the Stormwater Act of 2007.
10 There's other regulations, policies and legislation
11 mentioned by some of the speakers before me that this
12 permit can be strengthened to live up to and implement
13 to the letter of the law.
14   But I also want to just say that over 40 years
15 ago David Zwick wrote the book, Water Wasteland. After
16 writing that book, which reviewed how we treat our
17 water, how the federal government treats our water and
18 the pollution that moves into it, he created a small
19 canvas group to push the policies that came out of that
20 book called Clean Water Action. Clean Water Action is
21 40 years old this year.
22   After Clean Water Action helped with many

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1 other groups nationally to push some of the policy
2 changes and ideas in water wasteland and other ideas out
3 there, we had the Clean Water Act. We have a great
4 opportunity 40 years down the road to not only live up
5 to the letter of the law, the Maryland law and the
6 federal law, but live up to the real spirit of the Clean
7 Water Act in this permit.
8   I would hope that we take the improvements
9 that were suggested by my colleagues who came before me
10 and we write those into the permit. Take those
11 suggestions and that permit in hand, drive over to those
12 local communities and look at how these improvements to
13 the permit will be. Then you will say, oh yeah, now
14 it's going to work. Thank you very much.
15   MR. CLEVENGER: Thank you, Andy. Dana
16 Minerva.
17   MS. MINERVA: Good morning. Thanks for
18 allowing us to have some input into this permit. I am
19 Dana Minerva and I am the Executive Director of the
20 Anacostia Watershed Restoration Partnership, an
21 independent public-private partnership based at the
22 Metropolitan Washington Council of Governments.

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1   Today I'm stepping out of my usual role of
2 coordinator of various restoration efforts and into the
3 role of advocate because of the extreme importance of
4 MDE's permits for my watershed and for the Bay.
5 Eighty-three percent of the Anacostia Watershed, a very
6 polluted river, is in Maryland, which many people don't
7 know. The views that I express are my own and I am not
8 speaking on behalf of the Partnership's members.
9   As someone who has been an environmental
10 regulator with state and federal agencies, I know that
11 it is difficult to incorporate changing science into
12 regulatory decisions. I know that it is especially
13 difficult to convince those who you regulate that
14 "tried and true ways" of doing things are now obsolete.
15   However, because of the importance of
16 restoring the Bay and Maryland's rivers and streams, and
17 because of the hundreds of millions of dollars being
18 invested, it is imperative that the best scientific
19 approach be taken, and I know you know that.
20   After reading and considering the National
21 Research Council's 2008 report on stormwater and some
22 of the scientific literature cited in that report, I

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1 feel compelled to ask you to continue to work to
2 incorporate the Council's conclusions into the proposed
3 City of Baltimore permit and other Phase I MS4 permits
4 with regard to the types of restoration or retrofit to
5 be implemented.
6   Presently, the draft guidance, which is
7 incorporated by reference into the proposed permit,
8 provides the standard for what restoration must meet.
9 The permit itself does not contain standards for what
10 heights of restoration are required and the guidance
11 does. I would suggest, perhaps, that the standard for
12 what restoration means should be included in the permit
13 itself, I'll say as an aside.
14   In any case, the guidance says that one inch
15 of treatment is required for restoration to be counted
16 toward the requirement that 20 percent of the unmanaged
17 impervious surface be restored. Treatment is not
18 defined. As best I can tell, treatment includes
19 detention. Indeed, Montgomery County and Prince
20 George's County are planning that approximately 80
21 percent of their retrofits are detention type
22 retrofits.

14 (Pages 53 to 56)

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1   It is hard to read the National Research
2   Council's 2008 report on stormwater, the scientific
3   articles relied on in that report, and EPA's
4   interpretations of it and not draw the conclusion that
5   detention is now perceived by scientists to be an
6   obsolete practice, to be used only in those rare
7   circumstances when no other practice can be
8   implemented.
9   There is growing consensus that detention and
10   filtration practices do not protect water quality and
11   certainly do not protect the biological integrity of our
12   rivers and streams. The reasons are many, as the
13   National Research Council has said.
14   Detention does not reduce the overall volume
15   of polluted runoff. Detention may delay the peak flow
16   from a particular site, but in combination with the
17   runoff from the other detention systems, the impacts of
18   volumes are merely delayed and not mitigated.
19   Detention practices are often designed and
20   constructed on an ad hoc and site-by-site basis without
21   consideration of the total hydrological impact in the
22   river or the watershed or sub-watershed.

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1   Concentration of pollutants leaving detention
2   ponds may be reduced but the volume of the stormwater
3   flows leaving them keeps pollutant discharges high and
4   detention does not protect downstream channels from the
5   erosive effects of stormwater volume which mobilizes
6   sediments and destroys biota.
7   I would like to say that the Anacostia TMDL
8   for sediments states that 75 percent of the sediments in
9   the Anacostia come from stream bank erosion. Therefore,
10   it's imperative that we reduce the volume that causes
11   stream bank erosion if we are to restore the Anacostia.
12   As I said, about 80 percent of the restoration
13   or retrofit projects -- and there's no standard for what
14   restoration means other than saying that one inch has to
15   be treated without saying that the treatment must
16   include volume control. Therefore, a lot of detention
17   is planned. Eighty percent of the projects planned in
18   my two counties are detention practices and other gray
19   infrastructure approaches.
20   Given the prevailing scientific view that
21   detention does not work well and that ESD approaches
22   that control volume are more likely to be effective,

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1   MDE's MS4 permits should contain standards that create a
2   strong preference for restoration and retrofit practices
3   that substantially reduce volume through infiltration,
4   evapotranspiration, and reuse. This approach has a much
5   greater chance of restoring Maryland's rivers and
6   streams.
7   If MDE concludes that due to the developing
8   nature of the science relating to ESD retrofits that an
9   approach that is slightly slower than retrofitting 20
10   percent of the unmanaged impervious surface in each MS4
11   is warranted, I would understand that.
12   What I can't -- even though I want my
13   watershed restored as soon as possible -- what I cannot
14   understand is continuing to implement restoration or
15   retrofit with techniques that are no longer supported by
16   the science. Please include appropriate standards,
17   define treatment to include volume reduction approaches.
18   Please include appropriate standards for the types of
19   restoration that are to be required in the permit.
20   Thanks very much for your consideration.
21   Thanks for your ongoing work to restore the Bay and our
22   urban rivers and streams that are so polluted, like the

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1   Anacostia.
2   MR. CLEVENGER: Thank you, Dana. Laurie
3   Schwartz.
4   MS. SCHWARTZ: Good morning. My name is
5   Laurie Schwartz, L-A-U-R-I-E, S-C-H-W-A-R-T-Z. I'm
6   President of the Waterfront Partnership of Baltimore.
7   I certainly don't know the science like probably
8   everyone else in this room, but representing the
9   Waterfront Partnership of Baltimore as a business
10   organization, we do have certain approaches to solving
11   problems.
12   First, we want to thank you for holding this
13   hearing today. We're all very enthusiastic and excited
14   about cleaning our waters, especially in this 40th year
15   of celebrating the Clean Water Act. We all know how
16   much more work we have to do. We're especially focused
17   on the language of the permit and in the interest of
18   brevity I want to emphasize two key themes. My written
19   testimony will be much more comprehensive.
20   The first, standards and schedules for the
21   City and for MDE. The permit, as drafted, is extremely
22   vague in identifying any standards or benchmarks which

15 (Pages 57 to 60)

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1   the City must meet. How will we or they know what is
2   expected, what is satisfactory or effective performance
3   without knowing that goal, standards or benchmarks by
4   which these activities in the permit will be measured?
5   For example, maintaining a program to address
6   illegal discharges, dumping and spills. Eliminating
7   illegal discharges, dumping and spills are all extremely
8   critical to creating clean water. What are the
9   standards by which this program will be measured? Is it
10   having a press release issued saying the public
11   shouldn't dump satisfactory to meet the goal?
12   We know that's not the case, but we don't know
13   what is the case or what is that standard or benchmark.
14   We would urge MDE to provide standards for measurements
15   and require the program submitted by the City to MDE to
16   be submitted within four months of permit issuance, not
17   in one year as many program components included in the
18   permit require. And further, that the permit require
19   that MDE respond to those programs submitted within
20   three months. We cannot afford months to pass waiting
21   for a ruling from MDE. We all have a big job to do and
22   require MDE support in getting there.

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1   Regarding illicit discharges, the permit
2   refers to appropriate enforcement procedures. Again,
3   what are the standards and expectations here? It would
4   be much more instructive and beneficial for MDE if it
5   does not want to dictate actions to at least refer to
6   benchmarks for effective procedures or performance and
7   enforcement.
8   Evaluating the effectiveness of a public
9   education program. Public education is extremely
10   difficult to measure. Why waste having the City submit
11   after one year what it considers to be effective
12   communication only to potentially have MDE respond
13   negatively?
14   Again, please provide more standards or
15   benchmarks by which the permit will be measured, the
16   City's performance will be measured. And schedules must
17   be included for MDE responses as well. The permit
18   frequently cites time frames within which the City must
19   submit something. It is only appropriate and fair to
20   us, the beneficiaries of clean water, that MDE respond
21   in a timely and specific way as well. Please include
22   MDE's response times. Every day counts.

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1   The second major theme is transparency. Our
2   water belongs to all of us. The water flows beneath our
3   streets, homes or businesses in open tributaries like
4   the Jones Falls, through our parks such as Leakin Park
5   and Gwynns Falls, and used by many in the Harbor. We
6   are all affected by our polluted water.
7   We will shortly be paying for the cleaning of
8   polluted stormwater, and we will be the beneficiaries of
9   clean water. We are interested. We believe our
10   citizens are. And we all have every right to follow our
11   progress and know when we must do better and how we can
12   help participate.
13   We urge that either a separate website for
14   this permit be created and mandated as part of the
15   permit, or a separate section be designated on the
16   City's and MDE's websites for this permit.
17   Every proposal submitted, every program
18   report, annual report sent to MDE must be posted in
19   realtime, not only for annual reports which are, of
20   course, 11, 10, nine months after certain activities
21   that the public should be aware of.
22   City data must be posted and also MDE

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1   responses. Again, this is our water, our money, our
2   government. Accordingly, a common section for the
3   public must be included. Define and implement a public
4   education campaign and provide it to interested parties
5   upon request. This is our water, our money, our
6   government. The public education program, like all
7   other programs and permit requirements and responses,
8   must be available online to anyone at anytime, not only
9   those who take the time to write a letter and request
10   it. Written comments will be much more thorough.
11   To summarize, our two themes today are
12   standards and schedules must be set and there must be
13   transparency in this permit and all related documents.
14   Thank you very much for holding this hearing today.
15   MR. CLEVENGER: Thank you, Laurie. Claudia
16   Friedetzky.
17   MS. FRIEDETZKY: It's C-L-A-U-D-I-A,
18   F-R-I-E-D-E-T-Z-K-Y. I'm the conservation
19   representative for the Maryland chapter of the Sierra
20   Club and I appreciate the opportunity to be able to
21   comment on this permit today.
22   We are active across the state, including

16 (Pages 61 to 64)

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1 Baltimore City, and as has been mentioned previously,
2 the rivers and streams in Baltimore City are degraded
3 and very degraded. We have been trying to clean up the
4 Chesapeake Bay for at least 30 years, unsuccessfully.
5 So this permit, the intent I would hope of this permit
6 is to reduce the stormwater portion of the pollution
7 that enters our rivers and streams and degrades them and
8 also impacts the Chesapeake Bay negatively.
9   The Sierra Club agrees with all of the
10 comments that have been made by the previous speakers.
11 I just want to be very general here. Specifically, we
12 are in support of specific and enforceable requirements
13 throughout every MS4 permit and also the MS4 permit for
14 Baltimore City. Clear substantiative directives for all
15 plans to be developed.
16   For the permittees, specific measurable
17 criteria and performance standards for all permittee
18 programs. Measurable goals or quantifiable targets for
19 implementation. Deadlines for compliance, and regular,
20 complete and publicly accessible compliance reporting.
21 In addition to that, I wanted to point out that we share
22 some of the concerns that have been mentioned by the

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1 other speakers today in relation to meeting local TMDLs,
2 the notion of having milestones, benchmarks, specific
3 measurable goals.
4   There's also the concern, in relation to water
5 quality standards, that this permit does not prohibit a
6 violation of water quality standards. In addition to
7 that, we also support a strong preference for ESD for
8 the reasons that have been mentioned, including the
9 ability of ESD to deal with the volume aspect of
10 stormwater discharges.
11   Finally, I wanted to echo what Dan Smith had
12 mentioned earlier, that I think there is a symbolic
13 dimension to this permit. We are at the beginning of
14 this long process to Chesapeake Bay restoration and the
15 MS4 permits are certainly a pillar of this process. And
16 the fact that this permit might be rather vague and does
17 not have enforceable standards sets a tone for the
18 entire process that we are very concerned about.
19   We have already heard from the counties, the
20 MS4 permitted counties, that they view the MS4 permits
21 as the only mandated aspect of the Watershed
22 Implementation Plan process and Chesapeake Bay

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1 restoration. And for this process to be robust, it's
2 really, really important that this MS4 permit is as
3 strong as it can possibly be because it is a reflection
4 of the state's commitment to Chesapeake Bay restoration.
5   So I wanted to leave you with those thoughts.
6 We will be submitting detailed comments at a later
7 point. Thank you very much.
8   MR. CLEVENGER: Thank you, Claudia. Judd
9 Anderson. For the record, Dana has provided us with her
10 written testimony. Thank you, Dana.
11   MR. ANDERSON: My name is Judd Anderson,
12 J-U-D-D, A-N-D-E-R-S-O-N. And like Andy and the people
13 from the Anacostia River, we represent some of the
14 voices that can't speak for themselves, the youth. I'm
15 with the Baltimore Rowing Club. I'm Director of Youth
16 Rowing.
17   The Baltimore Rowing Club is the most frequent
18 user of the Middle Branch Basin. Our 100 adult
19 members go out six days a week at 5:00 a.m. and again at
20 6:00 p.m. and many random times from April 1st to early
21 November. Our large high school team, and now growing
22 middle school outreach program to Cherry Hill, Westport,

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1 Mount Winans and South Baltimore, those kids row every
2 afternoon from 4:00 to 6:00 p.m. and through the summer,
3 daily from 9:00 a.m. until 1:00 p.m.
4   In addition to that, many high school teams
5 also row in the spring from 4:00 to 6:00 p.m. All told,
6 there are over 300 youths in rowing shells
7 skimming across the water, the waters of the Middle
8 Branch.
9   The Middle Branch Basin is a constantly
10 changing body of water. At rare times one can see the
11 bottom three to four feet down off the docks of the
12 Baltimore Rowing Club, but most of the time the water
13 is a thick, dense, murky solution, turning the gamut of
14 colors from blue/green to auburn to brown to purple.
15   The visible particles, objects and oil in the
16 water are evident to the naked eye, not just by looking
17 out of a shell, which has only a six-inch freeboard, but
18 when we clean off our boats at the end of each practice.
19   Our coaches have to be careful at low tide so
20 the engines of their safety launches do not get stuck on
21 the floor of the Middle Branch basin where there are now
22 garbage shoals that have developed. When we tilt the

17 (Pages 65 to 68)

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1 engines up to dislodge them from the floor, it is
2 usually not mud but plastic bags wrapped tightly around
3 the propellers that prevent them from moving. And then
4 removing by hand, an ugly job, is really the only
5 remedy.
6   The shoreline serves as a catchment for the
7 copious trash that accumulates from the many outflows
8 leading into the Middle Branch. Cleanups along the
9 shoreline conducted by various well-intentioned service
10 groups satisfy the consciences of those cleaning, but
11 for those of us who are there daily, we see how vain
12 the efforts are when within a day the garbage returns.
13   The garbage does, however, serve at least one
14 positive purpose, a teachable moment for our youth.
15 Their disgust gives us an opportunity to address how the
16 garbage gets there, what human behaviors lead to
17 polluted waters of the Middle Branch, how politics and
18 economic interests and self-interests get in the way and
19 what we can do about these things.
20   Our youth watch ducks paddling and leading a
21 flock of chicks through the filthy water and bemoan the
22 conditions. They find dangerous objects on the dock,

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1 like needles and condoms, and need to be careful
2 whenever going to the dock with their shells, despite
3 our trying to sweep the docks clean. We insist that
4 they wash off their hands and face with soap and water
5 or hand sanitizer after each row.
6   The Middle Branch Basin, like the Inner
7 Harbor, is a high potential body of water within the
8 city limits, aching to be cleaned and become the
9 recreational destination outlined in the Baltimore City
10 Master Plan. Rowing, kayaking, canoeing, swimming,
11 sailing and many events related to the water and the
12 vision of the Office of Sustainability could be an
13 economic boon to the City, but presently sits as an
14 open sewer.
15   The Charles, the Cuyahoga, the Chicago, the
16 Hudson and many other great rivers in great cities have
17 made remarkable progress. Some even hold triathlons in
18 their waters. Why can't Baltimore? Thank you.
19   MR. CLEVENGER: Thanks, Judd. For the record,
20 Judd has provided written testimony. Does anyone else
21 wish to speak? Anybody that wants to submit written
22 testimony can do so. The process from here is the

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1 public record will remain open until September 21st.
2   Tina Meyers just provided written testimony.
3 For the record.
4   Subsequent to September 21st, the Department
5 will consider everything received, both here at the
6 hearing and in written testimony up until that point,
7 and reach a final determination that will come in the
8 form of a final draft permit. And that will be
9 announced after that decision has been made. I think
10 the way it works is the -- Ray Bahr, can you tell us how
11 it works? I'm not sure.
12   MR. BAHR: What was the question again, Brian?
13   MR. CLEVENGER: The question is, what happens
14 now, Ray?
15   MR. BAHR: Well, as you said, we can receive
16 testimony until the 21st, September 21st, and then MDE
17 will take in all of your comments and hopefully craft a
18 very sensible permit for Baltimore City that achieves
19 water quality, which is something that we all want to
20 see. And then we will go to final determination.
21   There will be a listing in the public paper
22 and everybody on our interested parties list -- I think

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1 we have an interested parties list of over 85 people.
2 If you want to get on that list, if you're not on that
3 list, please let us know before you leave today. Submit
4 your e-mail and we'll shoot that out to everybody and
5 then you all can review that final determination and
6 hopefully it meets everybody's expectations.
7   If not, there are opportunities for you,
8 again, to contest that final determination. And that
9 begins a whole legal process. But we really don't hope
10 to go there. We hope to get these permits issued as
11 quickly as possible so we can begin the implementation
12 that needs to happen, and needs to happen immediately.
13 Does that answer your question, Brian?
14   MR. CLEVENGER: Pretty much. So that's what
15 happens now. Question?
16   AUDIENCE MEMBER: Yes, can you give a date of
17 the final determination?
18   MR. CLEVENGER: No, it's going to come after
19 the comment period closes. We can't know. I mean, on
20 September 20th we may get reams and reams of comments so
21 we can't tell you when the final determination is going
22 to be. We have to consider what has been written to us

18 (Pages 69 to 72)

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1 so giving you a date certain for that is impossible to
2 do. I mean, it's not going to be the next day and
3 hopefully it will get done before Christmas. That's the
4 best I can do. Anything else? Question?
5   MR. KLEIN: In the meantime, would it be
6 possible for you to post the latest annual report and
7 appendices for Baltimore City online?
8   MR. CLEVENGER: The latest annual report has
9 always been online. The appendices have not been. We
10 don't have them electronically, I don't believe. I
11 mean, we can check. But the initial permit for all
12 Phase 1 permittees, the latest permit for all Phase 1
13 permittees, and the Department's latest review of the
14 last annual report have always been online.
15   MR. KLEIN: Right. But not the appendices,
16 and that's where a lot of the critical information is to
17 figure out what's going on.
18   MR. CLEVENGER: Well, you can get them from us
19 through FOIA. And you can also get them from the City.
20 Call the jurisdiction. You can get that data if you'd
21 like. In some cases we're going to have it
22 electronically and it shouldn't be a problem to put it

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1 up. In other cases, maybe not. It depends on the
2 jurisdiction. Question?
3   MR. GILMORE: Yes, Brian, why does a citizen
4 have to file to get a FOIA to get a document that is
5 meant to be for the public?
6   MR. CLEVENGER: That's the process we use
7 in-house, Bruce.
8   MR. GILMORE: But why?
9   MR. CLEVENGER: Because we've been advised to
10 do so.
11   MR. GILMORE: So if a letter is written to you
12 from a citizen that says, I'm aware of a public document
13 prepared by me, the taxpayer paying entity, my local
14 government prepares a report, gives it to another
15 government entity to prepare a response after a review,
16 I have to write it. Some lawyer has to look at it.
17 Then you've got to wait 30 days at a minimum. I don't
18 understand that.
19   MR. CLEVENGER: Well --
20   MR. GILMORE: I know that you're not the only
21 jurisdiction that requires this. Certainly, many do.
22 But it's just beyond me why if somebody says, I'd like a

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1 copy of this document and if you don't have it in
2 electronic and they want to make a copy of it, say come
3 on down and pay for a copy and you can have it.
4   MR. CLEVENGER: Well, if you know me --
5   MR. GILMORE: Brian, I'm not --
6   MR. CLEVENGER: If you know me, you know that
7 I don't like saying because that's the rule. First,
8 because those are the rules, consider this roomful of
9 people and the incredible interest in these permits, I
10 think following a strict procedure is quite appropriate.
11   AUDIENCE MEMBER: Brian, can I add something?
12 I'm from the Attorney General's Office. The Department
13 gets 3,000 to 4,000 requests a year for public records
14 and so it is the law. If you want a copy of any public
15 record, you have to send a request to the Department in
16 writing. The law allows you to have 30 days. And
17 unfortunately, because there are so many requests for
18 records, the law provides that that's how the Department
19 can do it and that's how the Department does it. It's
20 really not Brian's fault.
21   MR. GILMORE: Okay. I didn't say it was
22 Brian's fault. And I'm glad you're here from the AG's

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1 Office.
2   MR. CLEVENGER: It's okay if you do say it's
3 my fault. I have a pretty thick skin.
4   MR. GILMORE: No, Brian, I'm not into that
5 today. That's not appropriate. We hear this all the
6 time from government entities. And I worked 19 years at
7 DNR so I know this scheme. I know how it works. If you
8 have a document and somebody comes to you and says, I
9 don't know whether I should send this out because this
10 may come close to internal consideration, internal
11 communication, privileged document, then at that
12 juncture you write back and say I'm sorry, but you've
13 got to write a FOIA because we now have to look at this
14 and that should be the cutoff.
15   If you have a document that's been produced by
16 a public entity, mailed in to MDE, if you don't want to
17 pay for the mailing out of it and don't want to pay for
18 the photocopying of it or don't want to pay to make a
19 disk or any other electronic media, make them pay for
20 it. Nobody here is saying we want a freebie for all
21 this stuff. We just want to get it without having to
22 wait.

19 (Pages 73 to 76)

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1   I've got two files for Prince George's County.
2 It took two months to get a response. I have to walk in
3 and sit at the person's office, listen to her go through
4 her business day as I read through the documents so that
5 I could select the ones I wanted rather than just saying
6 to me, here are the documents. They are going to cost
7 you X-dollars to photocopy, do you want to photocopy
8 them all? Come in tomorrow and let's make an
9 appointment to read them. You've got them all together.
10 They always have them all together. They're always in
11 the pile. I don't understand this.
12   Maybe Mr. Gansler ought to introduce a bill in
13 the next session and say, let's get rid of this mess
14 where citizens can't get access to government activities
15 that they paid for. Thank you. I'm going to shut up
16 now.
17   MR. CLEVENGER: Okay. I think any discussions
18 about a public information process is to take place
19 someplace else. This is a Baltimore City Stormwater
20 Permit Hearing and we're about finished.
21   You will hear from us if you're on our
22 interested parties list. As Ray said, if you're not,

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1 let us know that you want to be and you'll hear about
2 it. The public record stays open until September 21st
3 and after that you will see a final draft for a final
4 determination. Okay. You get the last question.
5   AUDIENCE MEMBER: Will everyone that signed in
6 today be automatically on the interested persons list?
7   MR. CLEVENGER: We can check, but we only have
8 a small population. I mean, not everybody spoke here
9 today.
10   AUDIENCE MEMBER: Didn't you also have a
11 nonspeaker sign-in?
12   MR. CLEVENGER: Okay. On your way out if you
13 want to sign it, that's fine. Without any other
14 business, it being about quarter of noon, I declare this
15 hearing adjourned. Thanks.
16   (Whereupon, the public
17   hearing was concluded.)
18
19
20
21
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1   CERTIFICATE OF COURT REPORTER
2
3   I, Kathleen Vetters, a Notary Public of the
4 State of Maryland, County of Baltimore, do hereby
5 certify the foregoing proceeding was recorded verbatim
6 by me and this transcript is a true record of the
7 proceedings.
8   I further certify that I am not of counsel to
9 any of the parties, nor in any way interested in the
10 outcome of this action.
11   As witness my hand and notarial seal this
12 21st day of August, 2012.
13
14 _____
15   KATHLEEN VETTERS, Court Reporter
16   NOTARY PUBLIC
17
18 My Commission Expires: November 19, 2015
19
20
21
22

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