



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

June 14, 2021
Mr. David V. Lykens, Director
Baltimore County Government
Department of Environmental Protection and Sustainability
11 West Chesapeake Avenue, Room 400
Towson, MD 21204

Dear Mr. Lykens:

This letter acknowledges the Maryland Department of the Environment's (Department) receipt of Baltimore County's 2020 Financial Assurance Plan (FAP), and 2020 Watershed Protection and Restoration Program (WPRP) Annual Report as required by the Annotated Code of Maryland. This FAP submission includes information on the cost of compliance with the impervious surface restoration plan (ISRP) requirements outlined in the County's National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Separate Storm Sewer System (MS4) permit.

The ISRP, when sufficiently funded, is essential for restoring local water quality and the Chesapeake Bay, and providing climate resiliency in the County's watersheds. The FAPs are sufficient if they demonstrate that the County has the dedicated revenues, funds, or sources of funds to meet, for the 2-year period immediately following the filing date of the FAP, 100% of the projected costs of compliance with the ISRP requirements of the County's MS4 permit.

After reviewing Baltimore County's 2020 FAP, the Department has determined that the County has demonstrated that it has sufficient funding in its FAP. The Department has provided more detailed comments in an attachment for the County's information and use. The County's next WPRP Annual Report will be due in coordination with its next MS4 Annual Report, and its FAP will be due in coordination with the 2022 MS4 Annual Report.

The Department recognizes the substantial effort required in developing these FAPs and WPRP Annual Reports, and looks forward to working with Baltimore County on this very important environmental program for improving water quality, stormwater management, and climate resiliency. If you have any questions regarding this review, please contact me at 410-537-3567 or Jennifer M. Smith at 410-537-3561, or jenniferm.smith@maryland.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Lee Currey".

D. Lee Currey, Director
Water and Science Administration

cc: Jennifer M. Smith, P.E., Program Manager, Sediment, Stormwater, and Dam Safety Program

Attachment

**Maryland Department of the Environment’s (MDE) Review of
Baltimore County’s 2020 Financial Assurance Plan (FAP)**

Plan Condition	MDE Assessment and Recommendations
<p>Demonstration of Sufficient Funding</p>	<ul style="list-style-type: none"> • MDE received the County’s FAP on December 21, 2020. • The County provided a certification that indicates the following information: <ul style="list-style-type: none"> ○ A public hearing was held on the FAP on December 1, 2020. ○ The submission was certified (signed) by the County Executive on December 8, 2020. • The County’s permit expired on December 22, 2018, i.e., the middle of fiscal year (FY) 2019. The FAP demonstrates sufficient funding for the projected impervious surface restoration plan (ISRP) costs for FY2021-FY2022 (revenues projected at \$57,311,044 with a projected cost of \$57,311,044 over the same period).
<p>Actions to Meet Permit Requirements (“All Actions” worksheet)</p>	<ul style="list-style-type: none"> • Baltimore County included an executive summary with its FAP. This summary indicates the actions required to meet permit conditions as required by the Annotated Code of Maryland, Environment Article § 4-202.1(j)(1)(i)1. • Projected BMPs have been reported in the “All Actions” worksheet. • The cell formulas appear to be correct. • Sum totals for two years, five years, and all years have been correctly calculated. • According to the proposed actions detailed in the “All Actions” worksheet, assuming all planned projects proceed to completion, the County estimated restoration of approximately 1,475 acres, or 4.9% of the County’s total baseline impervious area (i.e., 30,180 acres) during the next five years (FY2021-FY2025). In the FAP, the County calculated its percentages based on the 20% restoration requirement of the past permit term, which has already been met; this should have been calculated as a percentage of the total baseline impervious area instead.
<p>Annual and Projected Costs (“All Actions” and “ISRP Cost” worksheet)</p>	<ul style="list-style-type: none"> • The County reported capital and operating costs for the past, current, and projected fiscal years as required. • Over the next two years, the County projects the restoration of approximately 665 acres at a cost of \$49,465 per acre, a significant increase from the \$19,250 per acre reported during the last permit term. This amount does not include the cost of street sweeping and catch basin cleaning which are BMPs that are being continued without any impervious acre credit being claimed. The County listed the following as contributing factors for increased variation in costs per acre over time: “[I]nflation in costs of materials and services, changes in MDE’s restoration accounting rules, and changes in the type and quality of restoration opportunities available to the County.” • In the “All Actions” worksheet, the County indicated that the cost for the next two years (including the cost of continued street sweeping and catch

MDE’s Review of Baltimore County’s 2020 FAP

Plan Condition	MDE Assessment and Recommendations
<p>Annual and Projected Costs (Cont.)</p>	<p>basin cleaning) is \$34.9 million; conversely, the “ISRP Cost” worksheet indicates a two-year cost of \$57.3 million. The County’s response to comments explained that this discrepancy is due to “All Actions” reporting costs for all implemented BMPs during that period versus “ISRP Cost” documenting costs for the years in which they are incurred.</p> <ul style="list-style-type: none"> • The County listed septic pumping BMPs with a \$0 associated cost. The comments in the Specific Actions (“Spec Actions”) worksheet noted that past implementation was done by private sector volunteers. The County should continue to provide outreach and promote these volunteer efforts and other \$0 BMPs for additional restoration credit and cost savings. • For certain BMPs, the County made separate entries for completed, under construction, and planned projects as applicable. In the case of completed projects, impervious acreage was entered with no associated cost; for the projects not yet started or completed, a cost was entered with no associated acreage. This method is acceptable as long as costs are not being double-counted between phases. <p>The County reported two BMPs in planning or under construction but without the associated separate entries that included the impervious acres upon completion. Specifically, one shoreline stabilization project from 2021 in the planning stage has a cost of \$425,000 but no impervious acres specified in a separate entry for the year of construction completion. Additionally, a 2022 stream restoration project has costs for Planning and Construction but no associated cost, acres, or year for when the implementation status will be “Complete”. The Department requests that the County clarify if these projects are part of another project currently reported in the “All Actions” worksheet. The County is encouraged to identify in future submissions entries and projects that are grouped together.</p>
<p>Annual and Projected Revenues</p> <p>(“ISRP Revenue” worksheet)</p>	<ul style="list-style-type: none"> • Baltimore County’s current permit expired on December 23, 2018 (i.e., the middle of FY2019). Accordingly, all projections in this FAP are beyond the current permit term. • Revenues for the ISRP have been reported for FY2021-FY2025 as required by Annotated Code of Maryland, Environment Article § 4-202.1(j)(1)(i)3. • Entries and formulas have been entered correctly. • The reported two-year (i.e., FY2021 and FY2022) revenue is \$57.3 million. • The County reported that the annual sources of funds match the percentage of funds directed toward the ISRP, demonstrating that the County has sufficient funding to cover projected restoration activities for the next two-year and five-year periods.
<p>Funding Sources</p>	<ul style="list-style-type: none"> • The County reported sources of funds for previous years of the permit term, FY2020, and projected FY2021-FY2025. • The required fields in the sources of funds worksheet are complete.

MDE’s Review of Baltimore County’s 2020 FAP

Plan Condition	MDE Assessment and Recommendations
<p>(“Fund Sources” worksheet)</p>	<ul style="list-style-type: none"> • Formulae have been entered and calculated correctly. • Sources of funds for the next two years include: <ul style="list-style-type: none"> ○ Revenue Bonds = 20.0M ○ General Obligation Bonds = 10.0M ○ Carryover from previous fiscal years = \$9.9M ○ Debt Premium = \$8.4M ○ General Fund = \$6.6M ○ State Grants = \$2.0M ○ Miscellaneous Fees = \$0.4M ○ Total Funding Sources = \$57.3M • The largest sources of two-year funds were \$20 million in revenue (utility bonds) and \$10 million in general obligation bonds. Other large sources were \$9.9 million in “[c]arry over from previous fiscal years” and an \$8.4 million “debt premium”. The sum of the County’s funding sources for the current fiscal year and the projected years (i.e., FY2020-FY2025) exceed the County’s costs, demonstrating sufficient funding for the next 5 years.
<p>Specific Actions and Expenditures from Previous Fiscal Years (“Spec Actions” worksheet)</p>	<ul style="list-style-type: none"> • The County reported completed BMPs in the Specific Actions worksheet. These BMPs were completed between June 30, 2010 and June 30, 2020. • The formulae for calculating the total costs have been entered correctly. • The County reported costs of BMPs for completed projects in sufficient detail. • From December 22, 2018 (date of permit expiration and the administrative continuation) to FY2020, the County reported 1,284 acres of completed restoration for a cost of \$31.5 million. This includes 61 acres of BMPs with \$0 in cost. During the same period, the County reported continued street sweeping (with no impervious acres) for a total cost of \$1.7 million. • The County reported a total of 1,243 acres of restoration projects completed prior to 2010, contributing it to its ISRP (the total amount multiplied by 0.2) in lieu of subtracting the acreage from its baseline. This method is consistent with the County’s annual report and the calculations from the approved ISRP total. • The County calculated a total of approximately 7,165 acres of completed ISRP restoration up through FY2020. This number differs from the sum of the amount reported in Tables 10-30 and 10-31 of the County’s FY2020 Annual Report, which totals approximately 7,309 acres when previous restoration efforts and current (post-2018) restoration efforts are added up. The County noted that a similar discrepancy in the last FAP resulted from the delay between required finalization of the FAP prior to the December 23rd deadline of the Annual Report due date.