



Maryland

Department of the Environment

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

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

June 14, 2021

Mr. Adam Ortiz, Director
Department of Environmental Protection
Montgomery County
2425 Reedie Drive
Wheaton, MD 20902

Dear Mr. Ortiz:

This letter acknowledges the Maryland Department of the Environment's (Department) receipt of Montgomery County's 2020 Financial Assurance Plan (FAP) 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.

Chapter 124 of the Acts of the General Assembly of 2015 requires the Department to make a determination regarding the sufficiency of funding in each FAP filed with the Department. The first FAP, filed in 2016 by the County, was found to demonstrate sufficient funding for the 2-year period immediately following the filing date of the FAP. Subsequent 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 Montgomery County's 2020 FAP, the Department has determined that the County has demonstrated that it has sufficient funding in its FAP. This determination is contingent upon the submission of supplemental information by June 30, 2021. The Department has provided more detailed comments in an attachment for the County's information and use. The County's next FAP will be due in coordination with the 2022 MS4 Annual Report.

The Department recognizes the substantial effort required in developing these FAPs, and looks forward to working with Montgomery County on this very important environmental program for improving local water resources and the Chesapeake Bay. 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,

D. Lee Currey
Director, Water and Science Administration

cc: Jennifer M. Smith, P.E., Program Manager, Sediment, Stormwater, and Dam Safety Program
Frank Dawson, Division Chief, Watershed Restoration Division, Montgomery County
Amy Stevens, Manager, Monitoring Section, Watershed Restoration Division, Montgomery County

Attachment

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

FAP Condition	MDE Assessment and Recommendations
<p>Demonstration of Public Participation and Sufficient Funding</p>	<ul style="list-style-type: none"> • The County submitted its FAP to MDE on Tuesday, February 16, 2021 satisfying State reporting requirements. • Montgomery County held a public hearing on its FAP on March 9, 2021. At the time of review, the County’s FAP is proceeding through the final approval process. • The County’s FAP demonstrates sufficient funding for 100% of the projected Impervious Surface Restoration Plan (ISRP) costs for the fiscal year (FY) 2021-FY2022 period (\$92,203,364 in revenue versus \$92,203,364 in cost), meeting the requirement for funding of 100% of the ISRP.
<p>Actions to Meet Permit Requirements (“All Actions” worksheet)</p>	<ul style="list-style-type: none"> • Montgomery County included with its FAP an executive summary that indicated the actions required to meet permit conditions and the ISRP. • The total restored impervious acres from the “Spec Actions” worksheet correspond correctly with the restored impervious acres indicated on the “All Actions” worksheet. • The County is reporting a total of 3,779 acres restored through FY2019, or 100% of its ISRP. • The County has documented general categories of best management practices (BMPs) implemented to meet the 20% ISRP requirement. • The County grouped two projects together and reported them as structural type “GABION”. These grouped projects were also reported in Appendix J of the County’s FY2020 Municipal Separate Storm Sewer System (MS4) Annual Report, under “Outfall Stabilization”.
<p>Annual and Projected Costs (“All Actions” and “ISRP Costs” worksheet)</p>	<ul style="list-style-type: none"> • Montgomery County reported capital and operating costs for the current and projected fiscal years as required. • Worksheet entries and formulas have been entered correctly. • The County did not list any specific acreage, BMPs (or categories of BMPs) in the “All Actions” worksheet for implementation in FY2021 or FY2022. However, in the “ISRP Costs” worksheet, projected costs are listed for certain categories, including street sweeping, inlet cleaning, Tree Montgomery and Watershed Grants, and new BMPs treating existing impervious area/redevelopment. • Although the “ISRP Cost” worksheet shows revenue to cover 100% of the reported costs, in the “All Actions” worksheet, no restoration projects (BMPs) have been listed for implementation in projected (future) years. This was communicated to the County via email correspondence on February 22, 2021. MDE requested that the County itemize individual BMPs and/or BMP categories that further break down these reported expenditures, and that these data be submitted by June 30, 2021. On May 5, 2021, the County submitted an updated FAP that included general categories of BMPs and specific BMPs as well as their associated costs. ISRP Cost, ISRP Revenue, Fund Sources, and Specific Actions worksheets were not modified.

MDE’s Review of Montgomery County’s 2020 FAP

FAP Condition	MDE Assessment and Recommendations
	<ul style="list-style-type: none"> The acreage and costs reported in the “All Actions” and “Specific Actions” worksheets are consistent.
<p>Annual and Projected Revenues (“ISRP Revenue” worksheet)</p>	<ul style="list-style-type: none"> Revenues for the ISRP have been reported for FY2020-FY2025. The “Annual Revenue Appropriated for ISRP” values and the “Annual Costs toward ISRP” values under ISRP Revenue correspond to the values under “Total Expenditures” in the ISRP Cost worksheet. Montgomery County’s FAP shows projected revenue to increase over the next 2-year period, as well as a general increase in FY2025 compared to current year projections. The County projects revenues for the next two fiscal years to be \$92,203,364 and the total for FY2020 and FY2021-FY2025 projections to be \$238,644,083, an increase from the \$191,459,671 projected in the 2018 FAP. The costs listed in the “ISRP Revenue” worksheet correspond directly with the projected costs in the “ISRP Costs” worksheet. The reported two-year ISRP revenue equals 100% of the funds needed toward the two-year ISRP costs.
<p>Funding Sources (“Fund Sources” worksheet)</p>	<ul style="list-style-type: none"> All formulas in this worksheet appear to be correct. Sources of funds for the next two years include: <ul style="list-style-type: none"> Water Quality Protection Charge = \$80.7M MD Water Quality Revolving Loan = \$34.7M Solid Waste Fund = \$12.1M Other Departmental Funds = \$8.9M Bag Tax Revenue = \$5.0M State Funded Grants = \$4.7M Federal Funded Grants = \$2.7M Investment Income = \$1.5M Tree Canopy Fees = \$1.5M Stormwater Management Waiver Fees = \$380K BMP Monitoring Fee = \$95K Total Funding Sources = \$152.2M For the next two fiscal years, the County projected that the majority of the annual funds would be from its water quality protection charge (53%) and from the solid waste fund (8%).
<p>Specific Actions and Expenditures from Previous Fiscal Years</p>	<ul style="list-style-type: none"> The reported actions and expenditures by Montgomery County correctly reflect the completed restoration activities. The formulas calculating the total costs have been entered correctly. The total restored impervious acres from the Specific Actions worksheet correspond with the total amount indicated in the “All Actions” worksheet.

MDE’s Review of Montgomery County’s 2020 FAP

FAP Condition	MDE Assessment and Recommendations
<p>Specific Actions and Expenditures from Previous Fiscal Years (cont.)</p>	<ul style="list-style-type: none"> • The County reported “Facility Planning” under Capital Projects, categorized by year (from 2010 to 2018). Although these entries do not have associated impervious acreage, they do have a reported cost (\$7,149,301 total). • Under “Other”, the County reported 933 total acres of “New BMPs Treating Existing Impervious Area”, under the code “REDE” (Redevelopment), and at a cost of \$615,387. Further clarification of this term, including a breakdown of individual BMPs in this category, was provided by the County as Appendix J in the County’s MS4 Annual Report.
<p>Future FAP Reporting</p>	<ul style="list-style-type: none"> • The County’s next FAP will be due in coordination with its FY2022 Annual Report.