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January 19, 2021

Raymond Bahr
Maryland Dept. of the Environment
Water and Science Administration
Sediment, Stormwater, and Dam Safety Program
1800 Washington Blvd, Ste 440
Baltimore, MD 21230

Re: Tentative Determination Draft NPDES MS4 Permit MD0068306, 20-DP-3316
Anne Arundel County Comments

Dear Mr. Bahr,

Anne Arundel County appreciates the efforts undertaken, and the coordination between the State and local jurisdictions, that led to the development of the next generation of NPDES MS4 Permits. We reviewed the above referenced Tentative Determination Draft NPDES MS4 Permit, specific to our jurisdiction, and provide the comments below for the public record and MDE's consideration prior to issuance of the Final Determination and final permit.

Stormwater Restoration (Part IV.E.)

With respect to Part IV.E.3., the County recognizes that accomplishing the required equivalent impervious acre (EIA) restoration goal of 2,998 acres will be challenging. One component of the County's restoration portfolio includes implementation of Full Delivery Project contracts, public-private partnership projects where EIA restoration credit is established at the time of contract. Currently, the County is locked into EIA restoration credit based on 2014 Accounting Guidance for the Full Delivery Projects that have been initiated but will not be completed prior to new permit issuance. The County requests shielding from the 2020 Accounting Guidance such that the project credits, as stipulated in the project contract, would not be subject to revision. This request applies particularly in the case of our contract with I97 LLC – executed in spring of 2018 – to accomplish the large-scale conversion of several commercial properties from septic to the public sewer system.

Part IV.E. 4 references Appendix B, the stormwater management portfolio to be completed by the end of Permit Year 1. During review of the Tentative Determination Permit Appendix B, the County concluded that revisions were needed because many of the listed projects were complete as of the end of FY2020 and the County, as of June 24, 2020, had met the administratively-continued NPDES MS4 permit's 20% EIA restoration goal through construction of stormwater projects that replaced nutrient trading credits. Enclosed with these comments, the County submits a revised Appendix B document that reflects projects to be undertaken in Permit Year 1. The County requests this revised Appendix B be appended to the Final Determination NPDES MS4 Permit to be issued.

Part IV.E.9. a. and 9. b. speak to the trading credits ("Nutrient Credits") acquired by the County to meet the administratively-continued permit EIA restoration requirement. Prior to issuance of this Tentative Determination Draft Permit, the County replaced the entirety of these trading credits and has no trading credits to carry into the new permit. Supporting documentation, included with this comment letter, is the County's FY2020 Annual Report sections Part IV.E.2 and E.3, as well as the appropriate FY2020 MS4 Geodatabase feature classes/tables. The County respectfully requests this permit requirement be deleted in its entirety as it is no longer applicable. If this permit requirement will not be removed, the County requests permit language to clarify that all nutrient trades were replaced as of June 24, 2020, prior to final permit issuance.

Part IV.F. Countywide TMDL Stormwater Implementation Plan

In Part IV.F.2, please revise the first sentence to say "Within one year of EPA's approval or establishment of a new TMDL **having a stormwater WLA**, Anne Arundel County shall submit..." (emphasis added). This compliance requirement should recognize that only those TMDLs with stormwater WLAs are subject to these NPDES MS4 Permit requirements.

Part IV.F.3 references Appendix A as the list of TMDLs and stormwater WLAs applicable to the County and for which the County must annually document implementation plan progress. When new TMDLs having stormwater WLAs are approved by EPA, will the issued NPDES MS4 Permit Appendix A be updated by MDE (i.e., a permit modification)? Alternatively, please modify the draft permit language to indicate all TMDLs listed in Appendix A and any subsequently approved TMDLs having a stormwater WLA are subject to this annual implementation progress reporting.

Part IV.G. Assessment of Controls

Part IV. G. 1. a. and 2. a. provide the County with the option to collaborate with the Department in the Pooled Monitoring Advisory Committee administered by the Chesapeake Bay Trust (CBT). Both paragraphs set forth the program enrollment requirements. Because the date by which enrollment must be demonstrated is shown as "[date to be determined]", the County suggest the enrollment date be no sooner than August 15, 46 days after the beginning of the Fiscal Year. The enrollment date should allow time for MOU signature as well as the required

funding transfer from the local jurisdiction to CBT, thus fully executing the MOU for Pooled Monitoring participation.

Part IV.H. Program Funding

With each annual report, the County provides narrative information as well as MS4 Geodatabase data to satisfy this permit requirement. Additionally, each year the County has been required to submit an annual financial accounting (WPRP Annual Report) as a separate file and, every two years, the County is required by State Regulation to prepare and submit a Financial Assurance Plan (FAP). In many instances, these reports have duplicative and overlapping information; in essence the jurisdiction is providing up to three individual financial reckonings each year. The County requests that, with the new NPDES MS4 Permit, the duplication of annual financial accounting be minimized and looks forward to working with the Department to accomplish that.

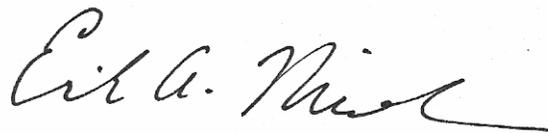
Part V. Program Review and Annual Progress Reporting

Annually, the County provides the required MS4 Geodatabase as well as the annual narrative report to document permit compliance activities. Certain new permit language alters prior permit reporting requirements and will require a parallel modification of the MS4 Geodatabase. The County appreciates the Department's willingness to work collaboratively with the Phase I jurisdictions to identify and develop geodatabase updates and revisions, and will continue participating in this collaborative work effort.

In addition to its water quality improvement work, the County spends a significant amount of financial and personnel resources on the maintenance and replacement of its stormwater collection and conveyance system and would like to see a way for that work and resource allocation to be recognized in the permit.

The County appreciates the opportunity to submit these comments for the public record. Should you have any questions or concerns regarding the above comments and suggestions, please contact me at your earliest convenience (pwmich20@aacounty.org or 410-222-7520).

Sincerely,



Erik Michelsen
Deputy Director
Bureau of Watershed Protection & Restoration

EM/JM

Enclosures

cc: Stewart Comstock, Program Review Division Chief, WSA, MDE
Christopher J. Phipps, Director, DPW
Karen Henry, Assistant Director, DPW
Ginger Ellis, Planning Administrator, DPW/BWPR
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