

**TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER
PERMIT MONTGOMERY COUNTY, MARYLAND; NO. 20-DP-3320, GENERAL
NPDES NO. MD0068349**

0:07

Wow.

0:08

Cool.

0:11

Give an antibiotic. Well, it's 3:55, now, we're going to start this at four o'clock. So, just please be patient, and we'll see you shortly. Thank you.

3:04

Oh.

4:17

Yeah.

5:01

Good evening, it's four o'clock.

5:04

Let's hearing.

5:07

Welcome to tonight's public hearing on the tentative determination to issue a national pollutant discharge elimination system municipal separate storm sewer permit to Montgomery County.

5:18

My name is Stuart Comstock, and I am the Chief of the Sediments, Stormwater and Dam Safety Programs, Program Review Division. I will be acting as your hearing officer tonight.

5:34

We'll start this hearing by making a few brief remarks concerning the permits, history, and a synopsis of the new permit.

5:40

After that, we'll, we will be accepting comments.

5:44

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

5:49

If there are technical questions, you may ask them in the questions box and our technical staff will help you.

5:56

Also, if you wish to raise your hand or ask me, unmute or mute your microphone, you may do so in the attendees pulldown menu near.

6:11

Brief introduction.

6:13

Notice For Determination for Montgomery County CMS for permit was published in the Maryland Register on October 23rd, 2020, And The Washington Post, October 23rd and October 30th, 2020.

**TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER
PERMIT MONTGOMERY COUNTY, MARYLAND; NO. 20-DP-3320, GENERAL
NPDES NO. MD0068349**

6:27

An announcement of the tentative termination was also sent to the department's interested party list.

6:32

And it has been posted on the department's website.

6:37

Permit and supporting factsheets are also available on the department's website.

6:43

Please note that everyone who registered for this hearing will be added to the interested party list and will receive no regarding this permit.

6:56

Let's talk briefly about the perma history.

7:00

Maryland has been delegated States Environmental Protection Agency or EPA to administer the MPD in the state of Maryland.

7:11

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

7:20

These regulations are the owners or operators, a stronger system serving populations of greater than 100,000, including Montgomery County.

7:29

Apply for a phase one MPD S municipal stormwater permit.

7:39

Montgomery County was considered a phase one municipality due to its population, which was over 750,000 based on 990 census data.

7:48

The initial IMS for permit was issued in March 1996.

7:52

This permit laid the foundation for our comprehensive approach.

7:59

To controlling Roth by establishing the necessary legal authority, mapping storm drain system infrastructure, identifying sources of pollution, monitoring storm events to characterize urban runoff, enhancing existing erosion, sediment control and stormwater management programs, and establishing new programs providing education and eliminating illegals storm drain discharges.

8:26

The permit was re-issued on July fifth, 2001, and most recently on February 16th, 2010.

8:35

Oh, to improve local water quality in the Chesapeake Bay, Montgomery County's most recent MS for permit included a requirement for the restoration of 20% of the impervious surface area

**TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER
PERMIT MONTGOMERY COUNTY, MARYLAND; NO. 20-DP-3320, GENERAL
NPDES NO. MD0068349**

within the county that was not already managed for stormwater, to the maximum extent practicable.

8:52

To meet this requirement, Montgomery County restore 3778 acres of impervious area.

9:03

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

9:21

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

9:27

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

9:36

The new permit incorporates the implementation of stormwater best management practices or be MP's for impervious anchor restoration using the county's total maximum daily load, or ... restoration plans and BMP implementation strategy.

9:51

It also establishes annual impervious aker restoration benchmarks throughout the five year permit term.

9:58

Proposed parameter provides incentives to implement green stormwater infrastructure to increase the use of natural designs and BMP is provide a climate resiliency co benefit.

10:08

It also strengthens the illicit discharge detection and elimination or IDD program, including a requirement to prioritize alcohol screenings in areas with the highest pollution potential.

10:21

The permit improves Wonder management of de icing anti icing materials to further reduce chlorides which is a pollutant of emerging concern.

10:28

And the new permanent encompasses the new 2020 accounting guidance that is also available on our website, which includes the phase six Bay watershed model, and several new and updated BMP.

10:43

Before we start recognizing individuals few instructions for those attending tonight here, we will be recognizing speakers in the following order.

10:52

We will ask for any elected or government officials first and allow them to present testimony.

10:57

When they are finished and you want to raise, raise their hands, we will call upon you in order.

**TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER
PERMIT MONTGOMERY COUNTY, MARYLAND; NO. 20-DP-3320, GENERAL
NPDES NO. MD0068349**

11:02

So please raise your hand after elected government officials are finished.

11:07

We will let each speaker know that they are unmuted.

11:10

You must also unmute yourself to speak.

11:13

After that, we'll recognize you. Please state your name and affiliation from where you are from, prevent your testimony.

11:19

Speakers will be given three minutes to present comments.

11:23

If there is extra time, you may comment more than once.

11:28

And again, we are not taking questions on the permit today.

11:34

At this time, I would like to ask, are there any local elected or government officials present tonight that would like to comment to the record? Please raise your hand now.

11:44

If you are not a local elected or government official, please refrain from raising your hand until after we have recognized them and they are finished.

11:54

It looks like mister Adam or Cheese has his hand raised.

11:59

Um, let me go ahead and unmute you.

12:05

Please make sure your unneeded before you. Go speak!

12:10

Thank you.

12:10

I believe I'm muted, but please confirm ..., you are unmuted, Please state your name and while your time to present, thank you.

12:20

Thank you so much, Stuart. Hello, everybody. I'm Adam Work Case. I'm the Director of Montgomery County's Department of Environmental Protection.

12:27

And it's such a pleasure and honor to be joined, joining you today on what's going to be the next era of Montgomery County's Watershed Restoration.

12:38

**TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER
PERMIT MONTGOMERY COUNTY, MARYLAND; NO. 20-DP-3320, GENERAL
NPDES NO. MD0068349**

I want to particularly thank m.d.e. staff. I know that, behind the scenes, there's a lot of work that goes into today into all aspects of our permit.

12:46

We're very grateful, and particularly, we want to thank Jennifer Smith, Rape, Bar, and You Stewart for everything that you're doing. We know that we go back and forth a lot.

12:55

I know Montgomery always has a lot of input and we appreciate you hearing us in.

13:01

This next era is going to build on more than two decades of restoration work. Our work has always been in partnership with all aspects of the Montgomery community businesses, homeowners associations, private residences, and activists throughout the various watersheds.

13:22

As you mentioned, Stu. We had a successful previous phase, nearly 4000 impervious acres. That a total cost of about 130 million.

13:33

Behind those numbers is a lot of great restoration projects, more than 300 Green Street MPs and in neighborhoods, 45 ESD practices, 36 stormwater pond retrofits, 16 stream restoration projects, almost six miles worth of restoration.

13:54

And then, additionally, almost \$2 million in grant projects to support various private property BMP keys.

14:02

And in addition to that, on private property, nearly 1500 rain scapes projects, This is all a big deal. We know that there's not a one size fits all. We have to do big projects, we have to do small projects, and we have to engage the public as creatively as possible. And although there's many formal PMP is, we know that alternative BMP matter a lot as well. We're really proud to announce that more than 11,000 trees have been planted in more than 100,000.

14:35

Residents have taken.

14:37

Taking part participated in different ways in our training programs, in educational workshops, for which we're so grateful.

14:46

Restoring our watersheds is something that government cannot do alone. It's all hands on deck, and we're so pleased to have so many hands on deck in our Montgomery County community.

14:56

And although we closed out our previous permit, and we're waiting for the new one, we are certainly working in the meantime. We've completed 11 restoration projects as we wait for this new permanent. 12 are currently in design or construction, more than 100 rain scapes projects have been installed, and 2400 trees.

15:19

TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER PERMIT MONTGOMERY COUNTY, MARYLAND; NO. 20-DP-3320, GENERAL NPDES NO. MD0068349

And this is going to give us a running start to meet the goals of this next permit.

15:26

Currently we're in the workshop internally putting together our next contracting approach to be able to meet these new goals. It's going to be taking the best practices from around the region and the country and our sister jurisdictions, but it's going to have a special Montgomery County flair to it.

15:46

As you know, we've done our own stream monitoring, and we have lots of data at our disposal in our department.

15:52

And we're using that to generate targeting maps where our projects will make the most ecological benefit.

16:03

So we know that not all acres of restoration are created equal. Some in the right places make more difference than others and are more resilient over time. So, we're going to use this data in tracking three with very sophisticated mapping.

16:20

Secondly, we're going to also be mindful of equity, inclusion, and co benefits.

16:26

Although it may not be a particularly explicit part of the next permit, it is certainly a priority to our department. So we are going to make sure that our projects are distributed in neighborhoods that are low and moderate income, and that have been historically marginalized.

16:41

We're also going to have full transparency.

16:43

All of this information is going to be available on our website, as well.

16:49

We're also going to continue to do the things that we do well. Inspection and Maintenance, Stream Monitoring, our rain scapes program. We're excited to be installing our first trash trap in the County.

17:00

First of many, we're working on legislation to track and make sure that skeptics are working and compliant and not not leaking or out of compliance in founding our waterways. And, finally, we're working with our sister jurisdictions and WSSC to address the salt issue. As you know, the solid is becoming increasing hazard in our drinking water. And there's something that can be done about it.

17:26

The governments are on board. And we think our policies are good working with our Department of Transportation. But we also need to work with the private sector for those that use private contractors for shopping centers and office parks and make sure that they're also applying them responsibly.

**TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER
PERMIT MONTGOMERY COUNTY, MARYLAND; NO. 20-DP-3320, GENERAL
NPDES NO. MD0068349**

17:44

A few other things we want to mention: We're very cognizant of the litter issue in the trash, tea m.d.l., for the anacostia watershed, So there are steps that we've been taking, working with many other sister jurisdictions and non-profits to make sure that we're tough on letter.

18:02

We're really pleased to announce that we ban number six plastics, which is polystyrene.

18:08

Folks are familiar with the Styrofoam ban, quote, unquote, which is expanded polystyrene, but richest polystyrene as all the problems that Styrofoam and film products have. Can we ban that? in our county? We're very excited about that, that's about a month old. Also, a plastic straw ban has been voted out of committee is before the full council and will we expect a favorable the vote by the end of this year.

18:36

That matters.

18:38

We're also working with other parts of the Department on zero Waste Initiative, to make sure that we're reducing the amount of waste in our waste stream and also in the litter stream, and let them find ways to hold manufacturers more accountable for the waste and refuse that the taxpayers end up cleaning up.

18:57

Finally, we're rolling out composts pilot programs, as well as enforcing our pesticide law first in the nation of its kind for a jurisdiction like ours.

19:09

That also makes a difference. So Stilwell this and so many more things we're doing for the people in Montgomery County in for the long term health of the Chesapeake Bay watershed. So we encourage everybody to continue to follow our work on social media and we're always available to answer questions and find other ways to partner with you.

19:27

Thank you so much restore our team. We appreciate your comments.

19:32

Are there any other government or local officials who wish to testify this afternoon?

19:38

I see a hand up. But, allies, are you local or are?

19:46

OK, seeing no other hands raised at this point.

19:53

We will go ahead and start going through the list of individual who has raised Andrew.

20:03

Sheehy.

20:11

And well, Andrew's doing that, I'm gonna.

TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER PERMIT MONTGOMERY COUNTY, MARYLAND; NO. 20-DP-3320, GENERAL NPDES NO. MD0068349

20:14

we're gonna try to hold that the three minute limit.

20:16

You'll hear my phone go off when the timer goes off, please understand that. If we have time, we'll get back to everyone, but we want to make sure that there is time. Thank you for everyone to speak.

20:28

Show Andrew, I believe it looks like Miss Eliza, Canva, has her hand raised.

20:35

I'm going to go ahead and unmute you, and if you could make sure you're unmuted first before you speak.

20:43

Hello. Can you hear me?

20:45

We can hear you.

20:48

And I'll start the timer. Thank you.

20:51

Absolutely, hi. I'm not a government official, my name is ... Akhada.

20:55

I'm the Conservation Director at Audubon Naturalists' Society, and I'm testifying today on behalf of Unnatural Society.

21:03

I'm also co-chair of the Stormwater Partners Network of Montgomery County, and we'll be submitting more detailed comments in writing on behalf of the network later on these comments or on behalf of ANS.

21:14

Yeah, first I want to say thank you. And I appreciate very much as TPUs and m.d.e.'s involvement of ANS individually.

21:24

And to our coalitions both the Storm Water Partners Network and the Church Clean Water Coalition, in the implementation of the 2010 Permit and the development of the 2020 permit, including being able to join the Green Infrastructure Working Group on accounting guidance. That was an example.

21:39

Really great an open conversation amongst quite a lot of stakeholders that we really appreciated being a part of.

21:44

I also wanted to share that we're really excited about the new Sault Plan requirement.

21:48

TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER PERMIT MONTGOMERY COUNTY, MARYLAND; NO. 20-DP-3320, GENERAL NPDES NO. MD0068349

Thank you for including that.

21:49

And thank you Director Ortiz for highlighting it.

21:52

Just now we appreciate, the progress Montgomery County has made to date on restoring impervious surface.

21:58

Montgomery County has actually restored more than 30% of its baseline impervious surface in 2010 Ines Applauds, Montgomery County for being willing to take that first 20% permanent out of all the counties, and achieve it despite the need to go to consent decree.

22:15

And we've generally felt that Montgomery County has been ambitious and committed to local watershed restoration and a great partner with Soil Water Partners Network, and our local watershed groups.

22:24

However, progress now seems to be slowing down and becoming difficult to quantify and this, these are not such positive changes.

22:34

In particular setting the continuing to use the impervious surface restoration metric which is an output not an outcome based metric. Makes it very hard to really recognize whether we are achieving success in restoring both the bay and our local streams. And moving from a 20% restoration requirement back to a 10% restoration requirement is lowering the bar on the level of effort. That really should be taking us accelerating in particular.

23:00

Just recently the Bay Journal announced that showed that the climate change. We need 10% more effort.

23:06

So we're moving backwards on stormwater progress by moving from 20% back to 10%.

23:13

Also, while we appreciate being involved in the green infrastructure working group, we need to be sure that green infrastructure is truly green infrastructure.

23:20

So, for example, **** would rather not see dry ponds and included in green infrastructure and stream restoration only if they had really substantial, a plant retrofits.

23:32

We're excited to be working with the department LOR on that through the Stormwater Partners Network.

23:36

I also wanted to testify that I'd like to be sure the DAP recommit to the 60% green infrastructure policy commitment partners. Network, several years ago, then. Finally, I wanted to talk about rate of implementation. It is terrific, that D P is ahead of the curve on meeting their permit

**TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER
PERMIT MONTGOMERY COUNTY, MARYLAND; NO. 20-DP-3320, GENERAL
NPDES NO. MD0068349**

obligations by having continued to work on projects since the 2018 Consent decree was closed out. And until there's 20, 20 permit becomes live.

24:03

But that means the actual implementation rate is going to fall below, what we know the department is capable of.

24:09

In the first 13 years, since 2010, permit got started.

24:16

I'm sorry, the county effectively had 13 years to achieve the first 30% of attorney service restoration, which is an implementation rate of 2.3% a year.

24:25

The next 10%, the next 1814 acres contemplated in the 2020 permit.

24:30

The county will actually have seven years to complete, which is an effective implementation pace of only 1.4% a year, even though it was drafted to be a five year permanent to have a 2% a year implementation rate. So the county was asked to do 2% a year, as the maximum extent practicable, despite having done 2.3% a year prior to that.

24:49

But will effectively only be doing 1.4% a year because of getting ahead in the last two years. So, that's kudos to the county for getting ahead. But that doesn't set up a system of being aggressive in making sure that our urban and suburban streams are cared for in the context of meeting the Bay Restoration goals. Thank you.

25:09

Thank you.

25:11

Thank you. If there's time, I don't, we will continue.

25:16

Andrew, who is next?

25:19

It appears, mister Kenneth Bower has his hand raised.

25:25

I'm going to go ahead and unmute you, mister Bauer.

25:29

Can you hear me?

25:31

Mister Bauer, I can hear you if you would state your name and affiliation and then I will start the timer. I will try to be polite when I tell you is three minutes. I'm kinda Montgomery County resident. I'm speaking for myself today.

25:51

Go ahead.

TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER PERMIT MONTGOMERY COUNTY, MARYLAND; NO. 20-DP-3320, GENERAL NPDES NO. MD0068349

25:55

OK, my name is kinda 22 year resident of Montgomery County Naturalist co-founders, Branch Waterson Alliance.

26:02

A former member of the Maryland Society, Volunteer, Montgomery Patch, we'd warrior for 15 years, President, nevertheless Montgomery County Citizen Association, which just approximately 300 members, were also members of the Stormwater Partners Network. And I am founder of the Montgomery Coalition to Stop Sharing Destruction that is concerned about.

26:19

The destructive nature illustration is speaking for myself today.

26:25

Declaration projects should be removed from the Montgomery County, EMS for permits. The term stream restoration is the misnomer since they do not actually restore streams were sent.

26:36

Exceptions, such as daylighting type streams and Concrete Kobo removal.

26:39

Most dream restorations convert sections of natural stream valleys in artificial engineered stormwater conveyances, ..., county permit, because the following issues, which will, which are expanded, upon in my written testimony number one. The scientific basis for the claim, the benefits of stream restoration projects, is disputed the scientific literature. Therefore the reasonable and conservative person can actually quickly to err on the side of caution and begin a re-evaluation of the Desirability Stream Restoration, for example. Branded all 20 20 in their report submitted to the Chesapeake Bay Trust states the following. Quote Unfortunately, the ecological aspects rarely improved, despite the improved physical measures, unquote. Number two, the publicly available information on completed stream restoration projects in the county show that they either had mixed results.

27:26

Project results against goals were impossible determined because no pre-construction data had been collected or in the case of character and the results have been posted on the web for Public Review. Nor were they provided after being requested. Even If a storm or even if a stream restoration project. Doesn't mean always stated goals and is coupled with robust up and retrofits stream Restoration will still destroyed precious natural areas and biological does not even required goal number three. There are alternative ..., valleys, filling, water retrofit, or control project that can be done in previously disturbed areas to meet the permit. According to the Accounting guidance document, is uploaded projects would address the root cause of the problem keeping standpoint and from a previous services, at a streams. To begin with number four, there are non destructive riparian alternatives restorations allowed by the Accounting guidance document, including riparian, forest, planting and riparian controversy conservation landscaping.

28:18

The complex web of interactions between final flora, geology, hydrology to interact and natural areas is irreplaceable and cannot be recreated by engineering projects using bulldozers, backhoes, and tracked and material to create to create artificial structures International areas

**TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER
PERMIT MONTGOMERY COUNTY, MARYLAND; NO. 20-DP-3320, GENERAL
NPDES NO. MD0068349**

think Humpty Dumpty we should be guided by the principle of do no harm in our stream valleys. Just as the Chesapeake Bay has environmental value, so do these rich fauna and flora of the extreme values, there are better ways to protect our bay. The trash or extreme values, and thank you for the opportunity to provide my input.

28:49
Hello.

28:51
Your time it goes impeccable.

28:56
Oh, Is there anybody else who wishes to speak? I know there was an individual who has their hand raised earlier, if you still wish to speak, now's the time to let us know.

29:16
I do not see any other hands raised at the moment.

29:21
Thank you.

29:21
OK, if there's no other hands raised there, are the people who presented wish to present again, or the add additional?

29:32
There is time available?

29:34
Raise your hand if you'd like to.

29:40
Mister Moieties has his hand reached.

29:44
Well, I'm going to go ahead and unmute you.

29:49
Thank you. I just wanted to take a moment and thank allies and Ken for joining me today and giving us their feedback.

29:57
I want to underscore how much the department values the relationship that we have with the local watershed groups, as well as the non-profit organizations that, um, that are not shy and sharing their opinion, and we're always anxious to hear what they say.

30:12
So, um, so I just wanted to thank them, in particular, and in general, thank the entire Stormwater advocacy community for, for working in partnership with our department, we think that ultimately it helps us have a better program.

30:27
Thank you.

30:30

**TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER
PERMIT MONTGOMERY COUNTY, MARYLAND; NO. 20-DP-3320, GENERAL
NPDES NO. MD0068349**

Is there anybody else who would wish to speak at this time?

30:36

Looks like mister Bauer. Has his hand raised?

30:41

OK, mister Bauer to go ahead and unmute you?

30:45

Yes, I would be remiss in not thanking M.d.e.

30:49

and also director of the parties for his excellent leadership. In Montgomery County. I know that I see some people on the line as well, frankly, taste and others are Amy Stephens. Some other people, I do thank them for the work.

31:05

I think they're doing a great job for, for the county. This just happens to be one particular area where we possibly are in disagreement, and I know that that people, who has the best interests of the environment at heart are going to have disagreements, not everybody. Not all environments.

31:23

Environmentalists agree on the placement of Yeah.

31:27

Say, a panel is not all environmentalists', agree on the use of nuclear power.

31:32

So, I don't want to him leave anyone with the impression that they don't appreciate what our county employees are doing for us. I do think they're doing a good job, and so I just wanted to leave on a positive.

31:45

Thank you, sir. Thank you. It is greatly appreciated.

31:49

Again, anybody else?

31:57

Alright, OK, let the record show that there are no more hands raised.

32:03

Seeing no more hands raised at this time, We are finished taking comments today.

32:11

Just because we are first taking comments tonight, does not mean that you cannot still submit comments.

32:17

Public comments will be accepted until January 21, 2021, This 90 day comment period, they may be submitted either by e-mail, or any, or by mail using the address is shown.

32:31

We thank you for attending tonight's hearing, and I'll give you all a few minutes to if you need to jot down these addresses.

**TRANSCRIPT – TENTATIVE DETERMINATION TO ISSUE STORMWATER
PERMIT MONTGOMERY COUNTY, MARYLAND; NO. 20-DP-3320, GENERAL
NPDES NO. MD0068349**

33:07

Does everyone have a chance to write down the addresses?

33:12

If not, they are available on our website. What the public notice is available there.

33:18

Again, I thank you for attending tonight.

33:21

This hearing is now closed.

33:39

That evening, everyone.