MARYLAND DEPARTMENT OF THE ENVIRONMENT

Water and Science Administration
Wastewater Pollution Prevention and Reclamation Program
Industrial Stormwater Permits Division
1800 Washington Boulevard, Suite 455
Baltimore, MD 21230-1708

FINAL DETERMINATION

Response to Public Comments

Regarding

Days Cove Rubble Landfill Discharge Permit

State Discharge Permit Application No. 19DP3782

NPDES Permit No. MDR0071587

Last Revised: April 14, 2026

Contents

INTRODUCTION

The Department has been processing an application submitted by Days Cove Reclamation Company, 6425 Days Cove Rd., White Marsh, MD 21162, for renewal of a permit to discharge an annual average of 12,500 gallons per day[1] of treated leachate from a rubble landfill located at 6425 Days Cove Rd., White Marsh, ND 21162.

Notice of a tentative determination regarding this permit was published in The Baltimore Sun on July 9, 2025 and July 16, 2025. The Department received a request for a public hearing which was held September 16, 2025. Notice of the September 16th hearing was published in The Baltimore Sun on July 29, 2025 and August 5, 2025. The public comment period was extended upon request and concluded on October 22, 2025. Notice of the extended comment period was published in the Baltimore Sun on October 7, 2025 and October 14, 2025. Substantive comments received during the public comment period are compiled and numbered in a separate document. This document summarizes the comments received during the public comment period and provides the Department's responses. Comments that are similar in nature or identical have been grouped to reduce redundancy.

This document supplements the Fact Sheet and other documents in the record. In the event of any inconsistencies between the Fact Sheet and this document, this document shall take precedence.

SUMMARY OF CHANGES FROM THE TENTATIVE DETERMINATION DRAFT PERMIT

The following table summarizes the changes made from the tentative determination to the final determination of this permit. Most of these changes were in response to specific comments. The following were based on other factors: change in Special Condition N was made in response to a recent U.S. Supreme Court ruling; Special Condition R was updated to reflect changes in EPA testing methods related to PFAs.

[1] Note: the renewal application for this permit requested an increase in the annual average flow to 25,000 gpd. However, the operator withdrew this request. The final determination will have an annual average flow of 12,500 gpd.

#	Type of Change (limit, monitoring, condition)	Brief Description of Change	Section of Permit
1	Limitation	The monthly average ammonia limit for the months of November through April was revised from 2.9 mg/l to 2.4 mg/l. Refer to RTC 470-477 for details.	I.A.1 (Effluent Limitations and Monitoring Requirements)
2	Monitoring	Composite sampling was added as the sampling method for the parameters of total phosphorus, ammonia (water-quality based limit only) and total nitrogen. Refer to RTC 615 for more details.	I.A.1 (Effluent Limitations and Monitoring Requirements)
3	Monitoring	The annual average flow has been amended to 12,500 gallons per day. This is consistent with the annual average flow that was in the previous iteration of the permit. Refer to RTC 337-372 for more details.	I.A.1 (Effluent Limitations and Monitoring Requirements)
4	Special Condition	Recycling was removed as a path for attaining compliance with permit limits. Refer to RTC 388-392 for more details.	I.O (Special Condition O)
5	Special Condition	Land application requirements for reuse of treated effluent for dust suppression were added to special condition P. Refer to RTC 388-3925 for more details.	I.P (Special Condition P)
6	Special Condition	Language was added to Special Condition S to address stratification of dissolved oxygen in the immediate receiving waters. Refer to RTC 394-395 for more details.	I.S. (Special Condition S)
7	Special Condition	Biomonitoring will be required in the final determination based on public input and the nature of the facilities' discharge. Refer to RTC 265-267 for more details.	I.K (Special Condition K)
8	Special Condition	Updated Special Condition N to be consistent with the recent U.S. Supreme Court ruling in *San Francisco v. EPA*.	I.N (Special Condition N)
9	Special Condition	Updated PFAs monitoring condition to the most current language. PFAs monitoring was required in the TD and this change is to make sure the final permit monitoring language is in line with the EPA's most current PFAs testing method. The testing method was changed to reflect EPA changes (1633 to 1633A).	I.R (Special Condition R)
10	General Condition	The "False Statement" clause was added to the general conditions. This change is to ensure the	II.A.2.c

#	Type of Change (limit, monitoring, condition)	Brief Description of Change	Section of Permit
		permittee understands the consequences of providing false data. Refer to RTC 375-387 for more details.	
11	Limitation	TMDL loading limits, consistent with the Bay TMDL, were added for total suspended solids and phosphorus. These limits were added to comply with the Bay TMDL. Refer to RTC 484-502 for more details.	I.A.1 (Effluent Limitations and Monitoring Requirements)
12	Special Condition	Special Condition O was updated to reflect the TMDL loading limits for TSS and TP. Refer to RTC 484-502 for more details.	I.O (Special Condition O)
13	Special Condition	Deleted provision related to estimated flow data, because the site already provides MDE with measured flow data. Special Condition G has been marked reserved. Refer to RTC 373-374 for more details.	I.G and I.H (Special Conditions G and H)
14	Monitoring	Added iron monitoring. This monitoring was added in response to commenters' concerns about potential iron in the effluent; monitoring this parameter will help determine if it is present in the discharge. See RTC 154-186 for more details.	I.A.I
15	Special Condition	The daily maximum limit for *p*-cresol was changed from 0.25 mg/l in the TD to 0.025 mg/l in the FD. This change was made to correct a typographical error that was made in the previous iteration of this permit (12DP3782) and the tentative determination of the renewal permit. The corrected limit of 0.025 mg/l is the daily maximum limit that the site should be held to as described by the EPA's landfill ELG. This is a technological standard; there is no water quality standard for *p*-cresol in Maryland's regulations. This limit is more restrictive than the previous, and erroneous, level of 0.25 mg/l. A review of Days Cove's discharge monitoring reports (DMRs) confirms that the site will be able to meet this limit; in fact, the facility has no instances of exceeding the correct limit of 0.025mg/l.	I.A.I

RESPONSES TO SPECIFIC COMMENTS

1. TOPIC OF MULTIPLE COMMENTS: Designated uses of the receiving waters

Grouping – The permit threatens recreation (Use I) in the receiving waters

The comments 1-125[2] in this section reflect concerns that the proposed permit will harm the recreational interests of those who use the Gunpowder and Bird rivers and associated watersheds. Hundreds of commenters describe recreational opportunities in the area surrounding Days Cove including: swimming, fishing, crabbing, birding, boating kayaking, canoeing, trail running, tubing, beach-going, and wading. Many also describe the area, and specifically the surface waters, as a source of income and food while touting the aesthetic value they provide. Many commenters expressed concern that these recreational interests will be negatively impacted by the renewal of a permit to allow Days Cove Rubble Landfill to discharge treated leachate.

Other comments assert that the receiving waters are not fishable and swimmable and thus the Clean Water Act is being violated. Some regard the permit as the final straw that will break the back of the area, while others state that the area is already too fragile and burdened by pollution. Some request that the landfill be closed and turned into a park while others call for the permit to be strengthened or denied. Finally, some commenters allege that there is a contradiction between the Department of Natural Resources owning the land on which a landfill discharges pollutants.

Grouping – The permit threatens recreation and wildlife (Use I and II) in the receiving waters

Comments 126-153 in this section allege that the permit threatens not only recreation as described in the above section but also wildlife in the receiving waters. Many state that several species' populations with habitat in the area have decreased. Some assert that the Gunpowder and Bird rivers are habitats for Atlantic Sturgeon and that the proposed permit needs to be strengthened as a result. Overall, commenters describe the sentiment that pollution from Days Cove is poisoning wildlife in the area.

Response to Comments 1-153:

These comments are numerous in scope, totaling over 150 comments in all. The Department acknowledges the genuine concern represented in these comments. People feel that the discharge of treated effluent from this facility represents a genuine risk to their ability to use

[2] Substantive comments received during the public comment period were numbered and compiled in a separate document. Each comment is preceded (and followed) by a number corresponding to a footnote that describes the commenters name, affiliation (if applicable) and date of comment received.

the receiving waters for recreation. However, the permit addresses these concerns by setting limits and conditions that specifically protect the receiving waters for the designated use of recreation.

Permits contain effluent limitations and other conditions that comply with both Federal and State law, including the U.S. Clean Water Act, the Environmental Article of the Maryland Code, and the Code of Maryland Regulations (COMAR). The main concern in these comments is that the proposed permit will negatively affect commenters' ability to use the receiving waters for recreation. The permit is specifically constructed to continue to protect the receiving waters for the uses of recreation and wildlife. The limits and conditions in the permit are based on the use designation of the receiving waters. Water quality criteria, in the form of numeric limits, are assigned to protect waterbodies within a certain designation (in this case recreation). These limits are specifically chosen because scientific data has shown that these limits protect the waterbody for its designated use. In this case the site is discharging to "Days Cove, a designated Use II water body under COMAR 26.08.02.02 protected for water contact recreation, fishing, aquatic life, wildlife, and support of shellfish harvesting..." The limits and conditions in the permit are designed to protect the receiving waters ability to support recreation (Use I) and wildlife (Use II). Although the permit only mentions Use II, COMAR 26.08.02.02.B.3. describes how the designated receiving Use II waters are delineated. Use II designations *include* Use I: "[Use II] class designations includes all applicable uses identified for Class I…" In short, the limits and conditions in the final permit are specifically set to protect the receiving waters for use as recreation.

It should be noted that in some cases the existing permit limits being continued in the renewal are more stringent than federal regulations prescribe. For example, because the operator initially wanted to treat the effluent to drinking water standards the limits for total suspended solids (TSS) and pH are both more stringent than the Effluent Limitation Guideline (ELG) sets forth (see below table).

Parameter	**ELG Limit**	**Proposed Permit Limit**
Total Suspended Solids (TSS)	27 mg/l monthly average 88 mg/l daily maximum	10 mg/l monthly average 30 mg/l daily maximum
pH	within range of 6-9 SU	within range of 6-7.5 SU

Though the ELGs are technology-based limits, and not necessarily related to the designated use of the receiving water, the point is that the limits are stricter than legally required for this type of facility.

Other commenters assert that the permit has and will continue to have negative impacts on wildlife in the area. The Department has no data showing that wildlife in general or the population of any specific species has declined. In any case, the permit, as is described above, sets limits that are designed to protect the receiving waters designated use of supporting wildlife. This applies to the impacts of the site's discharge on the water quality of receiving waters. Again, COMAR 26.08.02.02.B.3 details the designated use as supporting estuarine and marine aquatic life and shellfish harvesting; this designation includes Use Class 1 protections which cover "the growth and propagation of fish (other than trout), other aquatic life, and *wildlife*

(emphasis added; see COMAR 26.08.02.02.B.1.d). The water quality standards used are designed specifically for protecting aquatic life, as well as wildlife, from the site's discharge.

The assertion that the Department of Natural Resources should not lease land to a landfill operator is outside of the purview of this permit.

CHANGES FOR THE FINAL PERMIT

No changes are required for this topic.

2. TOPIC OF MULTIPLE COMMENTS: Noncompliance

Grouping – The permittee has a history of violating their permit

Comments 154-171 in this section state that Days Cove has violated their permit 20 times, sometimes qualifying that this occurred in a two-year period. Some commenters point out that even though the facility was fined for these violations the fine assessed was not adequate. Based on these violations, commenters assert that the facility cannot be trusted under a renewed permit. Based on this, many commenters urge that the permit should be opposed or denied. Some commenters assert that the fines are inadequate and do not deter the site from discharging pollutants; on the contrary they insist that the operator is not operating in good faith and sees fines as the cost of doing business. One commenter sums up this argument by stating, "Allowing this application to proceed would reward poor environmental compliance and put further strain on an already vulnerable ecosystem."[3] Comments 172-179 in this section allege that the facility has accumulated 123 violations, most qualifying that this occurred between January 2024 and April 2025.

Comments 180-186 in this section describe the permittee's compliance record, citing a series of statistics that describe how the permit has allegedly been exceeded. They argue that these exceedances point to the facility's inability to successfully operate a wastewater treatment system. Specifically, the commenters allege the following exceedances: 760% for iron, 1230% for TSS, 221% for trivalent arsenic, 122% for copper, 100% for nitrogen, 51% over for zinc, 131% for alpha-terpineol, 65% for BOD, as well as limit violations for pH. One commenter alleges that the site did not sample for trivalent arsenic during a four month period in 2023, which is required under the current permit. Other commenters assert that the site exceeded its limits 16 times in 2023. Commenters also argue that these violations point to a pattern of violating the permit that would only be repeated under a renewed permit.

Comments 187-231 in this section offer a general argument that because the operator has violated their permit in the past they will likely violate any renewed permit. Specific exceedances are pointed out and commenters assert that the environmental impacts from these violations would be considerable. Other comments simply point out that violations have occurred, leaving the reader to imply any ill effects. Some commenters assert that the renewal of

[3] Anirudh Saraswathula, September 16, 2025 Comments

the permit should be denied, some even going as far as saying that the permit should be revoked. Others advise that the permit should be strengthened before issuance. A common theme repeated is that the permittee should not be able to "double" the amount of leachate, especially since the site has had violations in the past. One commenter sums these ideas up by stating, "If they exceeded in the past, they likely will do it again, at even higher levels if limits are increased."[4]

Response to Comments 154-186:

Days Cove began discharging treated effluent from their WWTP in April 2023. Between April and December 2023 the site reported several exceedances including: effluent violations of α-terpineol, DO difference, pH, total copper, ammonia nitrogen, and zinc from April through December 2023; the site also failed to monitor for trivalent arsenic from April through July 2023. From commencement of discharge in April 2023 through February 2025, the permittee has exceeded its permit limits a total of 20 times.

However, it is notable that 14 of the 20 exceedances occurred in the first five months of discharge, indicating that there was a learning curve to optimize treatment following the startup of discharge, which is not an uncommon issue for a site to run into. Wastewater treatment involves complex and often interdependent chemical and biological processes. Because of the complexity of the processes and other variables, even appropriately designed and constructed treatment systems often require some time after initial start up for operators to optimize the system to achieve full compliance. The Water and Science Administration's Compliance Program took enforcement action for a total of 16 permit exceedances occurring throughout 2023 which resulted in a penalty of $15,000.

The December 2023 exceedance of the zinc limit was investigated by the Facility and determined to be of an unknown cause. No exceedances of zinc have occurred since. The Department investigated the failure to monitor trivalent arsenic from April through July 2023. The Facility indicated in an August notification letter that they had difficulties finding a lab that could test this parameter, and that they had secured one in Seattle, WA with assistance from MDE.

The December 2023 pH violation was a reporting error that has been corrected. This is also the case with the December 2023 DO violation, which was taken at the wrong location and was a difference of only 0.1 (required to be 0.0), which they stated is within the tolerance of the instrument used to take the measurement (+/- 0.2). In all, these exceedances informed the practices at the site and even led to structural upgrades at the facility.

Regarding alpha terpineol, the exceedance was in May 2023 and a part of the fine assessed during the startup period. For copper, the exceedance was in May 2023 and a part of the fine assessed during the startup period. Regarding zinc, the August and December 2023 exceedances are part of the fine assessed during the startup period.

Based on the April 2023- August 2023 exceedances the site performed several updates to the leachate treatment plant (LTP) in order to: provide better control of the external factors imposed on the LTP, provide more round the clock automated maintenance of the LTP, and

[4] Michelle Chervak, October 9, 2025 Comments

provide more up-to-date data collection to minimize/avoid exceedances. These upgrades were completed in October 2023. Specifically the site performed the following upgrades:

- Construction of enclosure around the LTP's Primary Clarifier and Lime Storage to eliminate day-to-day weather impacts on the system (previously the Primary Clarifier and Lime Storage were exposed to the elements);
- Improved the system automation program to include 24/7 alarms, tighter process control mechanisms, additional data recording in system's cloud database, and revised system control options to address various influent profiles;
- Replaced and remounted meter in a different orientation;
- Replaced all influent and discharge lines;
- Installed discharge lines within conduit for protection;
- Installed automatic blowdown feature in pH probe trough to minimize interference during readings;
- Cleaned lime storage tank;
- Revised lime storage tank SOP; and
- Replaced mixing motor.

These updates gave the operator greater control of the effluent pH, which was a large contributor to a number of the early exceedances that were encountered. The operator addressed issues with the treatment system in a responsive and timely manner.

In 2024 the site reported four violations of their permit, all of which were reported to MDE and investigated by the operator; commenters allege that these exceedances occurred over the span of 123 days. Exceedances of BOD were reported in July and August of 2024. The operator performed a process investigation and increased sampling in order to identify the issue causing the violation. The site identified influent concentrations of BOD being higher during the months they were in violation and modified their process to account for this. In July and October of 2024 the site reported violations of trivalent arsenic. In this case the operator conducted a review of their treatment process and increased sampling frequency to verify consistency. Following the October exceedance the site identified that the lime product they were using was lower in pH than expected (trivalent arsenic treatment system relies on higher pH). Based on this they implemented a new SOP to test lime upon delivery and have not had any issues since. In both cases, the operator's investigations and resolutions were appropriate. Several comments refer to an exceedance of 1,230% for total suspended solids (TSS). The site's DMRs show no exceedances for TSS from 2021 to present.

Several comments also assert that the site discharged 760% over the limit for iron; however, there is no iron limit in either the 12DP3782 or 19DP3782 (iron is monitored for this site under their general permit (20SR3374) at multiple outfalls). Although iron is monitored under the general permit, it was determined that additional monitoring related to the leachate collection system was warranted since the monitoring under the general permit is 1) in place in order to detect leachate seeps and 2) can cease if the permittee demonstrates they do not have iron in their effluent. The iron monitoring in this permit would be to determine if the leachate collection system is discharging iron. EPA's chronic aquatic criteria of 1.0 mg/l applies to freshwater.

Response to comments 187-258:

With respect to "holding the facility accountable for its past violations," the permit is not an enforcement action. The site has been penalized for past violations. See response to comments (RTC) 154-186 for more details. In general, violations of the permit could form the basis for an enforcement action; however, any enforcement action would have its own separate process. The operator has been responsive and proactive in dealing with exceedances. When drafting a permit the compliance history of a site is looked at closely to see if there are relevant permit changes to be made. This includes a review of the discharge monitoring reports, inspection reports, settlement agreements, compliance schedules, and correspondence regarding violations. For example, if violations show a pattern of being repeated without resolution, permit limits or conditions could be updated to be more stringent.

This site in particular, had several violations within the first five months of starting discharging, which suggests the site was adjusting its treatment system and processes to real-world conditions. Again, see RTC 154-186 for more details. It is notable that the site has not repeated any of these initial violations. The exceedances that the site has had have informed their practices and the site has worked hard to resolve any issues related to effluent exceedances. For example, this site reported exceedances of BOD in July and August of 2024. In this case, they performed a process investigation and increased process sampling to identify the source of the additional BOD within the effluent, and planned to contain all non-compliant discharge via onsite frac tanks for future transport to the Back River WWTP. In October 2024, they submitted a report on their investigation. They identified that BOD influent concentrations were higher during the two months that the exceedances occurred, and that this led to overfeeding[5] throughout the treatment process. They advised MDE that they modified their treatment process in response, and have not experienced a violation since. When an issue occurs the site has a history of identifying a cause and making changes to fix the problem promptly. Regarding the facilities proposed increase in annual average flow see RTC 337-372 for more details.

Grouping – Enforcement for past violations have been weak

Comments 259-262 question enforcement of the permit. Some commenters in this section allege that the facility is violating their permit terms without consequence. Others assert that while there has been enforcement of some violations overall the permit is inadequately enforced. The permittee was fined $15,000 for permit exceedances that occurred in 2023; some commenters allege that this is not meaningful and is weak when you consider that fines can be levied up to $10,000 a day. Further, the Fact Sheet for 19DP3782 states that these violations were a part of a learning curve related to the start-up of the treatment system; a commenter alleges this is not supported by any evidence. Though these violations were rectified, other violations have occurred. Commenters assert that these should be investigated and that enforcement actions should be undertaken (including a consent decree). One commenter asserts that the permit does not include terms that would hold the operator accountable for pollution

[5] This refers to the over-addition of a chemical during the treatment process. This could lead to needed chemical reactions to not properly occur.

remediation. Another commenter questions the logic of letting the operator take samples and self-report violations. Overall, commenters allege that the permit's weak enforcement has led to negative environmental impacts.

Response to comment 259:

This commenter asked if past violations were remediated. Past violations were remediated. Please see RTC 154-186 above for more information.

Response to comment 260:

As explained in earlier responses, this site has appropriately investigated and resolved violations of its discharge permit, therefore the Department has determined that denying this permit based on past violations is not justified in this case. This site had violations when initially starting their treatment system; the issues leading to these violations were investigated by the operator and satisfactorily remedied. No pattern of repeated violations was observed in the DMR record, or otherwise. The permit sets limits and conditions but does not typically outline or decree enforcement actions. Any enforcement action would have its own separate process. In this case, the operator *was* held accountable for their violations, in the form of a penalty. See RTC 154-186 regarding the penalty paid by this site for their past exceedances.

Response to comment 261:

This comment states that the permittee is "not a good faith actor" because of the past permit violations. As discussed in earlier responses, the operator of this site has responded to past permit violations promptly and appropriately. In any event, permits *set* terms and a separate process exists to deal with violations of these terms. All of the violations that have occurred at the facility have been monitored and, when necessary, processed by the enforcement group at MDE. Based on these actions the permittee took necessary corrective actions and MDE has concluded that the violations do not justify a denial of the permit. See RTC 154-186 for more details.

The permit (Special Condition I.E. Analytical Laboratory) requires identification of the laboratory used to perform monitoring required by the permit. Further, the permit does not require the permittee to identify and provide for a groundwater scientist "to oversee or directly sample" effluent. Labs do provide specific instruction on sampling and provide a chain of custody from the delivery of sample to lab through analysis. The operator is required to take samples themselves, which must be analyzed by their identified analytical laboratory.

The "learning curve" rationale referred to in the fact sheet is based on best professional judgement. Refer to RTC 154-186 and 187-258 for more details. Specifically, this site made several updates to the facilities' wastewater treatment system in order to give the operator greater control of the effluent pH, which was a large contributor to the early violations that were

encountered. See above RTC 154-186 for a full description of how the facility changed their practices based on their initial struggles.

The facility incurred a $15,000 penalty due to these exceedances. See above RTC 154-186 for a full description of enforcement actions taken by MDE. When assessing a penalty the Department considers the following factors outlined in the Environment Article :

- The willfulness of the violation, the extent to which the existence of the violation was known to but uncorrected by the violator, and the extent to which the violator exercised reasonable care;
- Any actual harm to the environment or to human health, including injury to or impairment of the use of the waters of this State or the natural resources of this State;
- The cost of cleanup and the cost of restoration of natural resources;
- The nature and degree of injury to or interference with general welfare, health and property;
- The extent to which the location of the violation, including location near waters of this State or areas of human population, creates the potential for harm to the environment or to human health or safety;
- The available technology and economic reasonableness of controlling, reducing, or eliminating the violation;
- The degree of hazard posed by the particular pollutant or pollutants involved; and
- The extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator.

Finally, the commenter alleges that the draft permit does not include terms that would hold the permittee accountable for pollution remediation. The permit is not the vehicle for enforcement actions. Violations of the final determination could and have (See above RTC 154-186 for a full description of enforcement actions taken by MDE) formed the basis for an enforcement action; however, any enforcement action would have its own separate process.

Response to comment 262:

The commenter alleges that the permittee will continue to violate the permit because it makes economic sense for them to do so. They state: “It is reasonable to conclude that the costs of pollution remediation would significantly exceed the civil and criminal penalties defined in the Code, and that the prospective permittee will continue to violate the terms of the permit.”[6] The Clean Water Act and the Environment Article provide substantial civil penalties for violations, and the willfulness of violations and recurrent patterns of the same or similar violations are taken into account by the Department when pursuing penalties in enforcement actions. Intentional violations can also subject permittees to criminal penalties. The Department has no information or evidence indicating that the costs for the site to comply with the permit would incentivize non-compliance, considering the substantial civil and criminal penalties

[6] Sarah Riley Auer, October 22, 2025 Comments

established by law. Additionally, as discussed in previous responses, the permittee has responded to past permit violations promptly and appropriately. When a violation occurs it is reported, investigated and a solution to prevent further violations is put in place. Further, a routine check of the site's DMRs *does not* show a pattern of repeated exceedances.

With respect to "holding the facility accountable for its past violations," the permit is not the vehicle for enforcement actions. Violations of the permit could, and have (See above RTC 154-186 for a full description of enforcement actions taken by MDE.), formed the basis for an enforcement action; however, any enforcement action would have its own separate process. See above RTC 154-186 for a full description of enforcement actions taken by MDE.

Grouping – Construction permit has been violated

The comment 263 in this section alleges that the operator is violating the construction stormwater permit by failing to submit quarterly monitoring for turbidity. This fact, the commenter asserts, disqualifies the operator for consideration of this separate, industrial stormwater individual permit.

Response to Comments 263:

The facility's NOI for the construction general permit in question did not indicate dewatering water discharges to receiving waters. Because they are not dewatering to surface waters the site is not required to submit turbidity monitoring reports as a part of their construction stormwater coverage. Violations of the Construction SW permit would not necessarily disqualify the site from receiving coverage under this permit. That said, no violations of the construction general permit were uncovered.

Grouping – Phosphorus levels exceed the MCL

The lone comment 264 in this section refers to a data point that suggests the receiving waters have Phosphorus levels above the EPA Maximum Contaminant Level (MCL). Based on this data the commenter asserts that phosphorus should not be discharged from the facility.

Response to Comments 264:

MCLs are primarily used for drinking water standards, and typically only used to set limits on discharges to waters classified as "-P" or protected for drinking water. The facility in question does not discharge to a drinking water source. The commenter does indicate that because of the presence of phosphorus above the recommended phosphorus levels (there is no federal MCL for phosphorus in drinking water set by the U.S. EPA; however, EPA recommends total phosphorus concentrations not exceed 0.05 mg/L in streams entering lakes/reservoirs and 0.10 mg/L in free-flowing streams to prevent nutrient pollution) the site should be barred from discharging phosphorus. While the final permit does not require the facility to completely

eliminate it's phosphorus discharges it does set a loading limit for Ph. This limit is consistent with the Bay TMDL and is protective of receiving waters. See RTC 484-503 regarding TMDL for discussion of the TP loading limit.

Grouping – Biomonitoring

Comment 265 asks if any studies have been conducted to "to conclude that the proposed discharge of chemicals in the quantities that they propose will not adversely affect the environment or the rate of recovery of the river?"[7] Another comment 266 seeks information regarding biomonitoring and enforcement. Specifically: "…what specific conditions under which MDE is required or may elect to notify the applicant that a TRE is required and what the status of the permit conditions during that time? For instance, are MDE enforcement actions prohibited while the Evaluation is conducted? If a specific permit condition is found to be the cause of toxicity, is that the only condition that may be excepted from enforcement action during the study?"[8] A final comment 267 requests further biomonitoring and enforcement at the facility.

Response to Comment 265-266:

Biomonitoring was required under I.K. (Special Condition K) of the previous iteration of this permit. The studies were conducted at the facility between June 2023 and March 2024. Samples collected in December 2023 resulted in a finding of toxicity, but a subsequent retest, required by the permit, in January of 2024 indicated no toxicity. A toxicity reduction evaluation (TRE) would be required of the permittee by the Department if the results of a re-test confirmed the findings of acute toxicity (see permit at I.K.8). The initial three samples collected in June 2023, September 2023, and March 2024 also showed no toxicity.

Response to Comment 267:

The specific conditions under which the biomonitoring program was required to follow can be found in Special Condition K of the previous permit. The permittee is notified of their responsibility to conduct biomonitoring in the permit itself. Permit conditions remain in effect during the biomonitoring investigation. Any enforcement actions that may be related to biomonitoring are outside the purview of the permit itself; however, there is no prohibition of enforcement actions regardless of the status of a TRE.

Regarding requiring biomonitoring in the final determination, because of the public comments concerning both biomonitoring and toxics coupled with the fact that this site is a landfill with, ultimately, unknown inputs, the Department will require another round of biomonitoring.

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[7] Michael J. Purtell, Rumsey Island Resident, September 18, 2025 Comments

[8] Theaux M. Le Gardeur, Gunpowder Riverkeeper, October 22, 2025 Comments

CHANGES FOR THE FINAL PERMIT

Section I.K (Special Condition K) in the final determination permit has been updated to require biomonitoring. TSS and TP loading limits were added to the final permit in order to comply with the Bay TMDL.

3. TOPIC OF MULTIPLE COMMENTS: Community is Overburdened

Grouping – Three landfills in close proximity

Comments 268-307 in this section assert that the area surrounding Days Cove is already overburdened by several landfills, construction activity, a Superfund site and other industrial sites that have a negative impact on the receiving waters. They assert that the Day's Cove permit will only add to this stress. Several commenters state that there are three landfills within five miles of each other.

Response to Comments 268-307:

NPDES permits consider the impact of a facility on the surrounding area, specifically the receiving waters, by establishing discharge limits based on water quality criteria and applicable total maximum daily loads (TMDLs). Wasteload allocations, which can be site specific, are created through the TMDL process in order to bring impaired waterways back into attainment with water quality standards. TMDL loading limits for TP and TSS were added to the final determination of this permit. Further, the landfill conducted biomonitoring under their previous permit, and will conduct another round of biomonitoring under this final permit. This monitoring is used to identify any toxic effects that the site's treated effluent may have on the receiving water (including the TMDL need that was identified for the receiving waters; see Fact Sheet for more details). It should be noted that TMDLs take into consideration all of the facilities in a watershed. The Fact Sheet describes the impairments and TMDL statuses of the receiving water. The Clean Water Act also requires that the MDE review the health of the receiving waters. The impact of land uses and dischargers would be detected during these reviews, which are also eventually used to establish TMDLs. In this way permits address cumulative effects.

As required by law, permit applications must include an Environmental Justice (EJ) score. However this facility applied for their renewal prior to that law going into effect, thus MDE determined the EJ score and considered it in the drafting of the permit. The site is assigned an Environmental Justice (EJ) score through the Department's EnviroScreen mapping application. The census tract where the facility is located does not meet the definition of an overburdened community because it is below the 75 percentile threshold.

Grouping – Community is overburdened by pollution from construction

Comments 308-336 assert the receiving waters in question are already overwhelmed by runoff from construction activities, specifically a project at Ridgley's Reserve. The Days Cove permit in question, they argue, will only further harm an already overburdened area.

Response to Comments 308-336:

NPDES permits are written considering the impact of a facility on the surrounding area, specifically the receiving waters. Construction activities are permitted under a separate NPDES permit from Days Cove as they involve different operators and operations. The cumulative effects would be evaluated on a watershed scale when the Department evaluates the health of those waters. The permit is consistent with the applicable water quality standards. The impacts of construction at Ridgley's Reserve are being addressed by MDE compliance and enforcement. See

https://news.maryland.gov/mde/2024/09/06/maryland-department-of-the-environment-attorney-general-file-complaint-against-ridgelys-reserve-for-water-pollution-violations/

https://mde.maryland.gov/Documents/MDE%20v%20D.R.%20Horton%20et%20al.%20Complaint%20(DATE-STAMPED).pdf

https://cnsmaryland.org/2024/10/30/gunpowder-riverkeeper-files-motion-to-join-marylands-suit-over-water-pollution-near-joppa/

See above RTC 268-307 regarding cumulative impacts and the community being overburdened.

CHANGES FOR THE FINAL PERMIT

No changes are required for this topic.

4. TOPIC OF MULTIPLE COMMENTS: Volume and Flow Increase

Grouping – The proposed permit will allow an increase in flow and pollutants

Comments 337-372 in this section express concern about the facility's potential increased flow under the proposed permit having a detrimental effect on the receiving water. Most of these commenters also state that the volume/flow information presented in MDE documents is misleading and confusing.

Response to Comments 337-372:

The final determination of this permit will include the annual average flow of 12,500 gpd. After initially requesting an increase in the annual average flow (to 25,000 gpd) the operator withdrew this request. Regarding the commenters' assertion that the volume/flow information in MDE publications was misleading and confusing see RTC 396-401 which details the rationale for choosing information presented in publications.

Under the final permit the site also has TMDL loading limits for TN, TP, and TSS which, when reached, requires the operator to stop discharging and use the effluent for alternative purposes or truck to a wastewater treatment plant (WWTP). So, even if the operator increases their annual average volume they would still be constrained by the TMDL loading limit. Taking this into consideration one can see that the final effect of an increased flow volume would in reality mean that the operator would reach their TN loading limit faster *but not* necessarily discharge more pollutants.

Nevertheless, the applicant has requested that the annual average flow mirror current permit conditions and remain at 12,500 gpd due to public concern. This change will be reflected in the final determination of the permit.

Grouping – Real-Time Monitoring

A commenter points out that a magnetic flow meter, which the permit requires be maintained, exists at the 002 effluent outfall. The commenter asserts that this fact suggests the operator should not be permitted to estimate flows. Another commenter asserts that real time water quality metrics should be used to inform permit conditions in real time.

Response to Comments 373-374:

Comment 373 is related to flow monitoring. Though the permit previously allowed the permittee to provide estimated flow in lieu of measured flow the site does indeed provide their exact measured flow when reporting to MDE. This flow meter, perhaps more akin to a speedometer, measures instantaneous flow. Their engineering report states: “The treated effluent is stored in an effluent disposal tank, and is pumped to the outfall location through a magnetic flow meter. Effluent that meets the permit criteria is discharged to the receiving body of water. Effluent that does not meet the discharge criteria is sent to an effluent storage tank for final disposal at a publicly owned treatment works. These effluent streams are independently monitored and recorded.” Thus, the permittee is already providing real time measured flow data to the Department. Because of this, the final determination of this permit will require the operator to provide measured flow data, and not estimated flow data, to the Department for any required flow monitoring.

Comment 374 suggests that there be a way for testing water quality metrics of the receiving water to inform permit conditions in real time. There are no parameters requiring real time receiving water measurements. Further, unlike obtaining real time flow data, requiring real time monitoring of receiving waters would be economically infeasible for the operator. Indeed,

this would also be technologically impractical; many parameters require laboratory analysis that could not be completed on an onboard data collection buoy.

CHANGES FOR THE FINAL PERMIT

The permit language of condition I.A.1 Effluent Limitations and Monitoring Requirements has been revised to contain the annual average flow of 12,500 gallons per day. Specifically, the annual average flow in I.A.1 now states: "The permittee shall alert the Department when its annual average flow exceeds 12,500 gallons per day (gpd). The permittee shall evaluate any change in annual average flow each year and, in accordance with General Condition B.1, notify the Department by May 1 if the annual average flow is expected to exceed this level. This requirement is not a flow limit." This language is identical to that of the previous iteration of this permit. In other words, the annual average flow has been amended from the tentative determination and will remain at the same level as it did during the previous permit term.

Special Conditions G and H were updated to require the permittee to provide measured flow data to MDE for any flow monitoring required under the permit.

5. TOPIC OF MULTIPLE COMMENTS: Permit Conditions

Grouping – Permittee should not be able to sample effluent

Comments 375-387 in this section assert that allowing the permittee to take samples of their own effluent is a conflict of interest. They imply that data collected in this manner may not be accurate and is in need of independent verification. These commenters assert that MDE or some third-party should be collecting required sampling data. One commenter calls for a publicly available quarterly report.

Response to Comments 375-387:

The NPDES permits require sampling according to approved methods and those samples are to be tested at a certified laboratory. The reporting requirements of these results include posting the results through NetDMR on-line for complete transparency. The results are available on the public website ECHO (https://echo.epa.gov/). State and federal regulations provide penalties for knowingly falsifying monitoring information or tampering with monitoring devices, including imprisonment and/or fines.

MDE requires that labs used for sampling have certain certifications. MDE inspectors verify samples during their inspection and data review. In addition the permit requires that the permittee notify MDE of the testing lab (see permit at I.E). The sampling also requires a chain of custody be maintained and presented to MDE upon request. Further, the final permit will include the "False Statement" clause in the general conditions. This will help ensure the permittee clearly understands the range of penalties that may be imposed under State and federal law.

The permittee's compliance history demonstrates that the operator consistently conducts required sampling and appropriately reports any permit violations. See RTC 154-186 for more details. As indicated by the record the permittee has reported both compliant and non-complaint samples.

Both State and Federal law allow the Department to require the operator to shoulder these sampling and reporting requirements. Self-monitoring is prescribed by the Clean Water Act at 33 U.S. Code § 1318, which states that the "Administrator *shall require the owner or operator* of any point source to…(iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe)…" (emphasis added). See also COMAR 26.08.04.03A which states that "A discharge permit shall be subject to any monitoring requirements the Department deems necessary…" Although the Department has the authority to conduct monitoring it is not required to do so, and the Department is legally obligated to require the operator to perform self-monitoring under the permit.

CHANGES FOR THE FINAL PERMIT

The "False Statement" clause which describes the standard and penalties for making false statements in reference to a permit condition, was added to the general conditions (II.A.2.c).

Grouping – Use of effluent for dust control and irrigation (alternative purposes)

Comment 388-392 asserts that using treated effluent for alternative purposes should not be allowed under the permit. One commenter recommends that this may be allowed only if the effluent is treated to drinking water standards. Commenters go on to state that if the effluent is used for dust control or irrigation it should count towards the permitted total nitrogen volume limit. These commenters assert that the requirement for keeping a log be expanded to include more information and to be made publicly available. Limits on the amount of effluent that could be used for alternative purposes is also proposed. Another commenter alleges that spray irrigation requires a groundwater discharge permit and asks if the permittee will be applying for said permit. Overall, the commenters share the concern that allowing the use of effluent for alternative purposes will allow for unauthorized and excess runoff/discharges of pollutants.

Response to Comments 388-392:

The specific areas of the facility governed by this permit are fully lined; consequently, any treated effluent applied to these sections do not infiltrate or discharge to groundwater. Because of this, use of treated effluent above the lined portions does not require a groundwater discharge permit. Unlined portions of the site *are* covered by a separate groundwater discharge permit (State of Maryland Groundwater Discharge Permit No. 2024-GWD-2311). Because of this the treated effluent that *is* used for dust suppression would not count towards the site's TMDL loading limits since the effluent will not be discharging (to surface or ground). Any water applied to the portions of the landfill authorized under this permit would percolate to the lining

of the leachate collection system (and become leachate in the process). This leachate is pumped to the WWTP onsite and treated to the limits in this permit. The existing permit already states that the permittee is authorized to use treated effluent for alternative purposes "provided it is applied at a rate that will not result in runoff to surface waters" (Special Condition P). If the effluent is not discharging, and the site can account for the effluent via their logs, then no additional nutrients will be introduced to surface waters, where it *would* be subject to the TMDL limit.

Reuse of treated effluent for alternative purposes is routinely authorized groundwater discharge permits; the final determination of this permit will include standard inclusions from such permits to ensure that the treated effluent being reused is done in a controlled manner. This will include an expanded log requirement for the site. Any reused treated effluent applied would be re-captured by the leachate system and subjected to more treatment. Recycling was removed as a way for the permittee to attain permit limits; this strategy has not been implemented by the site and is not defined in the permit. As such, it was deemed as extraneous to the permit and removed in order to avoid any confusion.

CHANGES FOR THE FINAL PERMIT

Updated conditions will be added to the language in Special Condition P; these terms will ensure that the treated effluent used for dust suppression is not making its way to surface waters (and thus violating the Bay TMDL). The final permit language of condition I.P. Use of Treated Wastewater for Dust Suppression (Special Condition P) will contain specific requirements and limitations for reuse. See Special Condition P of the final determination for details.

Additionally, to avoid any confusion about what the permit is authorizing the final permit language of I.O. Additional Nitrogen Restrictions (Special Condition O) will no longer contain authorization to utilize recycling as a vehicle to attain compliance with the permit limits for TN.

Grouping – BOD study issues

Comment 393 asserts that the conditions under which the Evaluation of BOD Impacts (Special Condition S) modeling be undertaken should be added to the permit. Further, a firm timeline for submitting the model should be specified.

Response to Comments 393:

See Special Condition S of the final permit identified the basic conditions under which the modeling should be undertaken. The commenter does not provide any details about what further conditions should be applied. In any event, MDE reviewed the conditions in the draft and determined they are sufficient. See RTC 394-395 for more information on the changes in language to this Special Condition in the final permit.

CHANGES FOR THE FINAL PERMIT

No changes are required for this topic.

Grouping – DO issues

A commenter submitted data indicating that the receiving waters are stratified with regard to dissolved oxygen (DO), and proposed that sampling should be depth-sampled, among other considerations. Another commenter asserts that low DO levels, as indicated by monitoring near Days Cove, show that the area is under stress and that allowing increased pollutant loads under the proposed permit would add to this stress.

Response to Comments 394-395:

The Department acknowledges the data provided by the commenter shows stratification of dissolved oxygen (DO) in the old mining pit during the summer months. Stratification is a naturally occurring phenomenon.

Regarding the assertion that Days Cove has recorded DO levels "below Bay standards," the permit *does* set a DO limit (as a DO difference) and the site has had no violations of this limit. This limit is consistent with the water quality standards and protective of the designated uses of the receiving waters.

CHANGES FOR THE FINAL PERMIT

The final permit language for I.S (Special Condition S). Evaluation of BOD Impacts has been updated to include a requirement to address various depths in the immediate receiving waters. See Special Condition S.

6. TOPIC OF MULTIPLE COMMENTS: Community Engagement

Grouping – Public Notice Issues

Comments 396-401 allege that the permit should not be issued because the Tentative Determination (TD) and Public Hearing (PH) notices did not contain the correct information under state law. A commenter asserts that the TD and PH notices did not contain the proposed doubling of the allowable effluent and that this made it difficult for commenters to fully participate in the permitting process. Other commenters assert that information about the flow volume from the facility is only available in the draft fact sheet. One commenter mentions that the public notice did not contain information about endangered species and suggests that it

should. Finally, several commenters describe not being fully engaged in the permitting process because information about the permit is not widely available.

Response to Comments 396-401:

The final determination of this permit will include the annual average flow of 12,500 gpd. After initially requesting an increase in the annual average flow (to 25,000 gpd) the operator withdrew this request. The annual average flow in the previous permit (12DP3782) was 12,500 gpd (this requirement is not a flow limit); if the site expects to discharge more than this amount they are required to alert MDE. The site's historic discharges (based on DMR data) were 12,040 gpd. All of these flow numbers are described in the proposed fact sheet.

The Department used 12,500 gpd in publications, after considering the historic flow and the permit limits, because it determined that the load-based effluent limits in the permit would effectively prevent the facility from discharging at a higher flow rate than 12,500 gpd. See RTC 337-372 for more details.

Regarding endangered species (ES), ES are not specifically taken into consideration when constructing a permit; use designation provides protections for any ES in the area. See RTC 1-153 for more details regarding use designations.

A notice was published when the application was received on February 8, 2024, as well as letters to all interested parties in the permit, including all elected officials and the River Keeper or community groups. In identical fashion, all interested parties were mailed letters, and information about the draft and public hearing were published in the legally required areas. COMAR 26.08.04.01-1.E states that the Department publish public notices "in a daily or weekly newspaper of general circulation in the geographical area in which the proposed discharge is to be located." A notice of tentative determination was published in the Baltimore County section of the Baltimore Sun on July 9, 2025 and July 16, 2025. After receiving a request for public hearing, a notice of the planned public hearing was published in the Baltimore County section of the Baltimore Sun on July 29, 2025 and August 5, 2025, and letters were sent again to all interested parties. The Baltimore Sun is a widely circulated newspaper that is easily obtainable in the geographic area surrounding Days Cove. MDE also listed the event on our website (https://www.doit.state.md.us/ActiveDataCalendar/EventList.aspx?fromdate=8/22/2025&todate=9/20/2025&display=Month&type=public&eventidn=92722&view=EventDetails&information_id=130868) and on September 9th posted to our Facebook information about the hearing.

Grouping – Request for a public hearing

Comments 402-418 request that a new public hearing be held. Many reasons for this are provided: that the hearing was not held close to "where people actually live," that there was not enough representation from Days Cove or DNR, that discharge volumes were not properly disclosed, that an amended application was submitted and that residents need to understand the impacts and have their voices heard.

Response to Comments 402-418:

The Department conducted a public hearing in strict accordance with the administrative procedures and notification requirements mandated by COMAR. All statutory obligations regarding public participation were fully satisfied to ensure a transparent and compliant permitting process. The public hearing was held on September 16, 2025 at the Perry Hall Public Library. This public hearing was attended by an estimated 200 people, including elected representatives and local media. See above RTC 369-401 regarding public hearing issues for more details. The hearing is intended to give the public an opportunity to provide oral testimony. That is not the end of the public's opportunity for input, as interested parties can submit comments which are given the same level of consideration via mail or email. As discussed in Response to Comments 392-434, the Department additionally allowed for an extended public comment period.

Grouping – Community engagement and MDE response

Commenters in this grouping assert that the Maryland Department of the Environment (MDE), the Department of Natural Resources (DNR), and the Days Cove Reclamation Company (DCRC) were inadequate in their engagement with the impacted community in regards to the discharge permit in question. Many commenters take issue with the fact that DNR owns the land on which DCRC operates the landfill. Others assert that MDE did not properly alert the community to the landfill and its discharges. Other commenters assert that DCRC did not meaningfully engage with the public with its plans to discharge treated leachate.

Response to Comments 419-461:

The Department engaged the public through issuance of required public notices, consistent with COMAR regulations: the tentative determination (TD) notices were published July 9 and 16 2025, public hearing (PH) notices were published July 29 and August 5, 2025, a PH was held on September 16, 2025, and an extension of the comment period notice was also published on October 7 and 14, 2025. See RTC 369-401 for more details regarding public hearing issues and RTC 402-418 for more details on how MDE engaged the public through public notices.

Regarding the fact the DNR owns the land that the landfill is situated upon: this is outside of the purview of the permit in question.

Grouping – The permit was not properly reviewed

The comment 462 points out that the review date and acceptance date listed in the draft fact sheet are identical and states that a thorough review could not be completed in such a timeframe.

Response to Comments 462:

The review and acceptance dates represent when the review and acceptance were finished, but the reviewer(s) had already worked with the permit writer for several months and were familiar with the permit details before that point. The final review confirms who reviewed the permit during the permit drafting, and who understood the logic behind the limits, rationales, and terms of the permit.

Grouping – The permit is expired and administratively extended

The comments 463-464 in this section point out that the permit has been administratively extended since it expired in 2018. This, they allege, has the potential to negatively affect water quality in the associated watersheds.

Response to Comment 463-464:

The Department acknowledges the significant delays in reissuing the final determination permit. Significant efforts are underway across all divisions issuing NPDES permits at MDE in order to reissue administratively extended permits as now required by law and prevent lengthy administrative extensions moving forward.

CHANGES FOR THE FINAL PERMIT

No changes are required for this topic.

7. TOPIC OF MULTIPLE COMMENTS: Legal Concerns

Grouping – Critical Area

Comments 465-469 allege that a distilling pond within 100' of tidal water violates critical area laws. They state that the permit should not be issued because the swale that the treated leachate discharges to is within the critical area. One commenter asserts that the site installed a distilling pond in the critical area. Another comment alleges that the site is dumping sewage into an environmentally sensitive area.

Response to Comments 465-468:

The Department notes that North Sediment Basin No. 1, also known as the stormwater pond, which the Days Cove wastewater treatment plant (WWTP) discharges to, is not located

within the 1,000-foot Critical Area boundary. This stormwater pond is not newly constructed (and was not installed under the purview of any iteration of this permit). The stormwater pond was enhanced by combining two smaller ponds within the same footprint from March 2021 to May 2021 as a part of the facilities' Vertical Expansion Permit. Before this enhancement, there were two smaller sediment basins present within the same footprint; these ponds were combined to create one larger pond, but no change to the footprint of these vested ponds occurred.

Based on aerial reviews, it does appear that there has been new disturbance in the Critical Area that is not associated with this Vertical Expansion Permit (and was not installed under the purview of any iteration of this permit). Any MDE permit does not convey Critical Area Commission authorization for such an activity. However, it is part of MDE's (Land and Materials Administration) statutory requirement to alert DNR during the application process. DNR, in turn, has notified the Critical Area Commission of this disturbance and has committed to promptly cooperate with the Commission to resolve this matter.

See RTC 1-153 for more information about how the permit protects the receiving water's designated uses (which include protections for aquatic life and wildlife).

Response to comment 469:

The facility in question is not permitted to dump sewage into the receiving waters; the effluent that is discharged is treated to permit limits before discharge. See above RTC 465-468 regarding the critical area for a discussion of why discharging to a stormwater pond in the critical area is permissible under COMAR.

Grouping –Backsliding

Comments 470-472 allege that the permit could allow for backsliding regarding ammonia. The assertion is that the updated ammonia limits will allow more ammonia to be discharged. This would not only violate the Bay TMDL but also be considered backsliding under the Clean Water Act (CWA). Another commenter alleges that the draft permit violates this CWA section by allowing use of effluent for dust control and irrigation and also by allowing an increase in effluent volume. The commenters assert that backsliding will cause negative environmental impacts to the watershed.

Response to Comments 470-472:

Regarding ammonia, see the table below for ammonia limits from previous permit and final permit.

Permit	Parameter	Monthly Average Limit	Daily Maximum Limit
Previous Permit 12DP3782	Ammonia (as N) at pond	2.4 mg/l	--
Final Determination 19DP3782	Ammonia (as N) at pond May-October	0.47 mg/l	3.1 mg/l
Final Determination 19DP3782	Ammonia (as N) at pond November- April	2.4 mg/l	19 mg/l

The previous permit contained a year-round monthly average limit of 2.4 mg/l. The proposed summer (May-October) limit in the final permit is not backsliding since it is far more stringent than the previous permit which did not have such a limit. The proposed monthly average limit of 2.9 mg/l for November -April that was contained in the tentative determination draft permit has been reduced to 2.4 mg/l in the final permit. The originally proposed 2.9 mg/l limit was a result of the recent change (2023) in Maryland's Ammonia Water Quality criteria in COMAR and was slightly higher than the previous permit's year-round monthly average limit. However, applying the November-April limit with the much more restrictive May-October limit would have resulted in a lower aggregate limit for the year.

CHANGES FOR THE FINAL PERMIT

The final permit limit for ammonia (monthly average during the months November through April) has been updated to match the previous permit limit to reduce the confusion over backsliding. This change is supported by the fact that the facility has shown they can reliably meet this limit (see Fact Sheet DMRs for more details).

See RTC 394-395 regarding DO for a discussion about DO limits and alleged violations of the permit.

See RTC 484-503 regarding TMDL for a discussion of the final determination's TMDL loading limits.

Grouping – Endangered Species

Comments 473-477 allege that endangered species (ES) live in the area and these species will be negatively affected by this permit. Many assert that increasing the flow limit will specifically affect ES. Some species mentioned are: bald eagles, bog turtles (Glyptemys Muhlenbergii), yellow spotted turtles ("protected"), and the Atlantic sturgeon. Commenters

assert that the EPA ECHO database lists Gunpowder and Bird River as being hosts to endangered aquatic species yet the permit nor fact sheet mentions this fact.

Response to Comments 473-477:

The criteria established in COMAR and implemented through effluent limitations in the permit are designed to protect aquatic life, including endangered species (ES), by setting discharge limits based on the designated use of the receiving waters. For clarity, this permit authorizes limited discharges only; it does not govern the location, construction, or operation of the landfill. Potential habitat impacts associated with land clearing—particularly within wetlands—are evaluated under separate regulatory authorities.

As discussed in RTC 1-153, the designated use framework provides the basis for ensuring that permitted discharges are protective of aquatic life uses. Accordingly, if an aquatic endangered species is present in the vicinity of or downstream from the discharge point, the permit's limits are structured to be protective of those species and their designated aquatic habitat.

It should also be noted that the proposed flow increase was withdrawn by the operator; the final determination will keep the average annual flow consistent with what is currently permitted. See RTC 337-372 for further details.

Grouping – SAVs

Comments 478-481 in this grouping allege that sub-aquatic-vegetation (SAVs) have declined in the area as a direct result of the landfill's discharge. Several anecdotally describe a specific decline in SAVs in the past year or since the landfill started discharging.

Response to Comments 478-481:

The permit protects SAVs by setting limits based on the receiving waters designated use status and the water quality criteria necessary to support the designated use. Use Class II designations explicitly protect SAV which is even included in the nomenclature "Support of Estuarine and *Marine Aquatic Life* and Shellfish Harvesting," (emphasis added) since SAV are marine aquatic life. See COMAR 26.08.02.03-3.C.(9) for more information. The water quality standards used are designed specifically for protecting aquatic life. See RTC 1-153 regarding Designated Uses for a more complete explanation of how the permit protects those uses.

Grouping –Require an EIS

Comment 482-483 asserts that an Environmental Impact Statement (EIS) should be completed; this study should assess cumulative effects on the watershed, aquatic life, and nearby residential areas.

Response to Comments 482-483:

An Environmental Impact Statement (EIS) was not prepared in connection with the renewal of this permit. An EIS is required only for federal actions under the National Environmental Policy Act (NEPA), and this permit renewal does not constitute a federal action.

Grouping –TMDL

Comments 484-503 allege that, for various reasons, the proposed permit violates the Bay TMDL by allowing more than the allowable amount of total nitrogen (TN) to be discharged. These commenters argue that potentially violating the TMDL will have detrimental effects on an already overburdened watershed. Commenters point to the well known issues the Bay has with regards to over-nutrification and suggest that any new sources of nutrients will have detrimental effects on the Bay. Several commenters request that the site's discharges towards their TN limit include the use of treated effluent for irrigation and dust suppression. Another commenter asks about MDE's stance on allocating unused TMDL loads.

Response to Comments 484-502:

There are two arguments that commenters reference when reasoning that the proposed permit will violate the Bay TMDL: 1) MDE would be authorizing a "weaker" permit by making ammonia limits less strict, thus allowing more pollutants (specifically total nitrogen [TN]) than the TMDL prescribes, into the Bay; and 2) MDE would be authorizing an increased (so-called "doubling") annual average flow that would allow double the amount of pollutants flowing to the Bay. Some commenters espouse a combination of both arguments.

The permit does not allow the permittee to continue to discharge once the TN loading limit of 366.42 lbs/year has been reached. In theory, if no loading limit for TN were in place, an increase in the flow or decrease in a parameter concentration *could* lead to a Bay TMDL violation. The permit makes clear that once the TN limit, of which ammonia is a constituent, has been reached the operator must stop discharging and use the effluent for alternative purposes or transport to a WWTP. Any concentration of ammonia would be accounted for in the TN loading limit. Further, Part I.A.1. Of the final permit clearly states the loading limit while footnote (5) goes on to state: "The annual maximum load shall be 366.42 pounds per year net;" and "At the end of each calendar year, the permittee shall report and comply with the load limit." Special Condition O provides further clarity: "The permittee shall attain compliance with the permit limits for TN through any combination of the following: treatment, re-use, land application, and trading."

Regarding TSS, the Department has determined that the Bay TMDL applies to the facility's discharges; as a result loading limits for total suspended solids (TSS) and Phosphorus (TP) will be applied. See RTC 506 about TSS loadings not being adequately captured for a full discussion of this topic. The final permit contains a loading limit for TSS and TP, based on the

needs of the facility and the available loading in the watershed segment. Based on the below equations the site will require about 26 lbs/year of TP and 373.8 lbs/year for TSS:

Total Suspended Solids:

0.01204 mgd X 10.2 mg/L X 8.34 = 1.02 lbs/day

0.01204 mgd X 10.2 mg/L X 8.34 X 365 = 373.8 lbs/year or less than 1 ton/year.

Note: The TSS concentration (10.2 mg/L) and the flow of 0.01204 mgd (12,040 gpd) was calculated using the submitted DMRs.

Total Phosphorus:

0.01204 mgd X 5.77 mg/L X 8.34 = 0.07 lbs/day

0.01204 mgd X 5.77 mg/L X 8.34 X 365 = 26 lbs/year

Note: The TP concentration (5.77 mg/L) and the flow of 0.01204 mgd were calculated using the submitted DMRs.

The Department will reallocate rest of the available allocations from Days Cove RLF- Lateral Expansion towards the TP and TSS permit load (the permit is already using the TN allocation from this offline facility) and then take the rest of the needed allocation from Harford County RRF- Joppa Waste Energy Plant (which is also offline, making the allocations available). See RTC 503 below for more details about the Department's stance on using allocations from offline sites (reallocating unused loads).

Treated effluent that is reused for alternative purposes is not counted towards the site's TN TMDL limit because the effluent is not in a position to enter surface or ground waters. The site is lined and set-up to collect, contain and treat all the water (including stormwater and any treated effluent that is applied) that falls within the permitted footprint. See RTC 388-392 section about use of effluent for alternative purposes for more discussion on this topic.

CHANGES FOR THE FINAL PERMIT

The final determination includes changes to Special Condition P. Recycling was removed from the final permit. TSS and TP loading limits were added to the final permit in order to comply with the Bay TMDL.

Response to comment 503:

This commenter inquires about MDE's stance on allocating the unused loads from three non-operating sites. The Department tracks nutrient loads and in cases like this reallocates unused TMDL loads when a facility that was assigned a load is no longer in operation. This is

done in coordination with our standards program. The individual facility allocations are flexible due to the nature of a TMDL. The Department applies sector-wide, aggregate goals based on watershed and discharge type. Since all of the individual discharges are assigned a group allocation, those individual allocations are tracked where they are assigned in permits, provided the overall allocation is not exceeded.

CHANGES FOR THE FINAL PERMIT

No changes are required for this topic.

8. TOPIC OF MULTIPLE COMMENTS: Fact Sheet

Grouping – Permit inconsistently characterizes the receiving waters

Comments 504-505 asserts that the receiving waters are characterized as both tidal and non-tidal. Further, they allege that the water quality monitoring station that MDE uses to retrieve pH and temperature data, in order to determine ammonia limits, is too far from the discharge point to properly characterize the receiving waters. These commenters request that additional monitoring be required near the discharge point.

Response to comment 504-505:

The Department acknowledges the confusion between the characterization of the receiving waters as both tidal and non-tidal. This inconsistency was based on the previous permit writer's consideration of a TMDL loading limit for TSS; they determined that there is no significant tidal flushing to carry the sediment downstream. The Department no longer supports this rationale (see RTC 506 for more details). This RTC document, which supplants the previous Fact Sheet, acknowledges that the receiving waters for this facility are estuarine. This classification more accurately reflects the receiving waters as outlined in COMAR 26.08.02.02.B.3.

With regards to adding additional water quality monitoring to the permit, the permit already implements water quality monitoring conditions, including a requirement to conduct a BOD study (see RTC 393 for details). This BOD study will quantify any potential downstream effects of the site's discharge. All together, the permit limits and conditions require both water quality and technology based limits that are designed to protect the receiving waters. See RTC 511-514 for more details on the Department's stance on removing steps from the treatment process.

Note that the downstream monitoring station was only used to characterize the ambient receiving waters for salinity and pH; this characterization was needed in order to choose the correct ammonia limits, not determine compliance with the permit. In other words the Department does not rely on this downstream buoy to determine if the facility is in compliance with permit. That said, this station was close enough to the site's discharge point to reasonably

reflect the characteristics of the receiving waters at the outfall. The ammonia limits were adjusted from the previous permit in order to reflect changes in COMAR; the tidal/estuarine nature of the receiving waters was used to determine the new limits. See fact sheet and RTC 507 for more details.

Grouping – TSS will not be adequately captured

Comment 506 asserts that any total suspended solids discharged by the facility will not be adequately captured by the configuration of the receiving waters. The commenter points out that the receiving waters are tidal, according to various MDE sources, but that a "lack of tidal flushing" is used as a rationale (in the fact sheet) that TSS will not leave the immediate area.

Response to comment 506:

The previous iteration of this permit relied on the following rationale for not limiting total suspended solids (TSS) as a TMDL load: "Specifically, sediments are not going to leave this pond. Because the pond outlet is so small and far away from the point of discharge there would be no significant tidal flushing. Even if all of the effluent were to reach the pond, at the proposed limit, only a pound of solids will deposit in the pond daily (10 mg/l x 0.0125 mgd x 8.34 = 1 lb/d). At this rate the pond, which is after all an unreclaimed mining pit, will never fill, much less pass on its sediment downstream." This tidal flushing that occurs between the old mining pit and Big Gunpowder Falls is minimal; however, the Department acknowledges that the rationale was inconsistent with the classification of the receiving waters. Therefore, the proposed permit will now contain TSS and Phosphorus (TP) loading limits that are consistent with the Bay TMDL.. See RTC 484-503 for more details.

See also RTC 393-395 regarding BOD/DO stratification and depth-sampling.

CHANGES FOR THE FINAL PERMIT

A TSS loading limit was added to the final permit in order to comply with the Bay TMDL.

Grouping – Salinity data does not represent Days Cove

Comment 507 alleges that 10PPT is the wrong salinity to use for characterizing the ammonia limit because the monitoring data used was from a buoy 8,584 feet from the receiving waters. They suggest that the buoy that MDE pulled data from is too far from the immediate receiving waters to provide relevant data; they also provide data that suggests the receiving waters have a salinity of 2.7 PPT.

Response to comment 507:

Using the salinity (2.7 PPT) that the commenter provided would yield the same ammonia limit that the Department implements in the final permit. Ammonia criteria is based on the characteristics of the receiving water, not the influent. So in order to determine the ammonia limits, we use data from monitoring stations for the receiving waters. For ammonia we specifically needed to characterize pH, salinity and temperature. The data from monitoring stations represent multiple years of monitoring. Using data gathered for the receiving waters regarding these parameters, the ammonia discharge criteria found in COMAR 26.08.02.03-2. (tables for J and K) was selected. The Fact Sheet provides the discussion on how the criteria were selected. For these tidal waters, the most restrictive limits were chosen, which are for salinities up to 10 ppt. The commenter uses the same data that the state used (referred to as the buoy WT2.1), as an appendix to the comment. Salinity data obtained through the Chesapeake Bay Program water quality monitoring project https://mywaterway.epa.gov/monitoring-report/STORET/CBP_WQX/CBP_WQX-WT2.1/ from station CBP_WQX for the years 2011-2020 indicates that the average value for salinity is 1.54 ppt and shows no values above ten ppt. Temperate and pH values, also obtained from the EPA monitoring station using the same inputs. If the Department obtained data that suggested the salinity in the receiving waters was *above* 10PPT a different, and less restrictive, table and thus limit would have been used instead.

Grouping – Discharge should meet drinking water standards

Comments 508-510 assert that the effluent from the landfill be treated to drinking water standards before discharge.

Response to comments 508-510:

Permit requirements take into account the more restrictive of either technology based or water quality based limits. Those water quality standards are found in COMAR. Quite often the limits that support aquatic life are more restrictive than what we require for drinking water. For instance chlorine is toxic to aquatic organisms and therefore we limit chlorine in discharges. Certain metals such as copper are toxic to organisms at very low concentrations, but not to humans. The limits chosen are protective of the receiving water use. As stated in the cover of the fact sheet and permit, the waters are a designated Use II water body under COMAR 26.08.02.02 protected for water contact recreation, fishing, aquatic life, wildlife, and support of shellfish harvesting. The limits are not based on drinking water standards, since the receiving waters are not a source of drinking water.

See also RTC 264 for related details.

Grouping – UF and RO bypass

Comments 511-514 request that the permit require reinstallation of the ultrafiltration (UF) and reverse osmosis (RO) units. They allege that removing RO exposes Marylanders to "unacceptable risks" related to PFAs entering drinking supplies and fisheries.

Response to comments 511-514:

The water quality based limits set in this permit are established based on the receiving water uses. Refer to RTC 508-510. Once the limits are set by the permit, it is up to the permittee to determine how they will comply with the terms of the permit. As long as the operator is meeting their discharge limits and the conditions contained in the permit they are NOT required to alter their chosen processes.

Grouping – PFAs

Comments 515-517 assert that the draft permit does not adequately assess the cumulative and long-term risks associated with PFAs.

Response to comments 515-517:

A new condition included in the tentative determination, was added to the permit which requires the site to monitor for PFAs. See Special Condition R of the permit which requires PFAs monitoring. This is an important step in our NPDES discharge permits. This is how MDE is assessing the impacts of PFAs by permitted activities in the receiving waters. For more information on PFAS, refer to our website at https://mde.maryland.gov/PublicHealth/Pages/PFAS-Landing-Page.aspx. Note the link on the State's Action Plan. Also see the rationale for the PFAs monitoring in the fact sheet.

CHANGES FOR THE FINAL PERMIT

The final determination of this permit includes updated PFAs monitoring requirements. The final determination of this permit consistently reflects the characterization that the receiving waters are estuarine.

9. TOPIC OF MULTIPLE COMMENTS: Well water

Grouping- Well Water:

Comments 518-531 point out that residents in the area rely on well water; they assert that the discharge from Days Cove puts these wells at risk. Many commenters anecdotally report that there has been a decline in the quality of their well water, sometimes specifically referring to the past two years as a time frame. Many allege that toxic waste is being dumped into the Bird River, and this waste has the potential to harm "useable potable water in the area." Some commenters assert that the facility has shown noncompliance in the past and this would affect groundwater drinking water wells.

Response to Comments 518-531:

The proposed permit regulates the discharge of treated landfill leachate discharged to surface water; it does not authorize or regulate discharges to groundwater. The receiving waters are not designated as a drinking water source. The landfill's leachate collection system is designed to capture and manage liquids generated within the lined disposal area, including precipitation that infiltrates the landfill, in order to prevent accumulation and uncontrolled release. An evaluation of well records within a 5-mile radius of the discharge point indicates that the closest well was completed at a depth of 115 feet within the Patapsco Formation, and no reports of hydraulic influence from surface water sources have been made.The Department does not have data or other substantiated information demonstrating a causal connection between the Days Cove Rubble Landfill and the reported well water concerns in the surrounding area.

CHANGES FOR THE FINAL PERMIT

No changes are required for this topic.

10. TOPIC OF MULTIPLE COMMENTS: Community Input

Grouping – The permit should be strengthened

The comments 532-536 assert that the proposed permit is weak and needs to be strengthened. Though these comments are not entirely substantive they are included in order to illustrate the very real and substantial opinions of the people who are affected by the permit.

Response to comments 532-536:

These comments do not specifically object to any terms in the permit. The Department has concluded that the final determination of this permit has been strengthened, in part thanks to the input of various commenters.

Grouping – The permit should be denied

Comments 537-562 register their opinion that the permit should be denied. Many also assert that the landfill should be closed. Many reasons are provided: the facilities compliance record, the already impaired status of the water, and the allegation that the permit will further deteriorate the area. These comments are included in order to illustrate the very real and substantial opinions of the people who are affected by the permit.

Response to comments 537-562:

The Department has determined that denial is not appropriate given the circumstances described in herein. See RTC 618-622 for more details about the permittees legal right to discharge.

Grouping – Opposed to the permit

Comments 563-587 state that they are opposed, often significantly, to the issuance of the proposed permit. Several reasons are provided similar to the Comments 510-535: the facilities compliance record, an alleged increase in the pollutant load, and the allegation that the permit will further deteriorate the area. These comments are included in order to illustrate the very real and substantial opinions of the people who are affected by the permit. See RTC 618-622 for more details about the permittees legal right to discharge.

Response to comments 563-587:

These comments do not specifically object to any terms in the permit not already addressed in detail elsewhere and therefore are not being more specifically responded to here. See RTC 618-622 for more details about the permittees legal right to discharge.

Grouping – Specific Questions

The comments 588-611 ask specific questions related to the permit and landfill.

Response to comments 588-596:

These questions 588-596 do not refer to any specific terms in the permit that can be addressed and therefore are not being more specifically responded to here. These questions refer to issues that are outside of the purview of the permit.

Response to comments 597-598:

These comments 597-598 ask if the leachate can be trucked off to a wastewater treatment plant or discharged to surface waters. Both the previous and the proposed permit allow the operator to haul it to a different wastewater treatment plant or discharge treated leachate through this treatment plant to surface waters. Please see the draft permit for the permit conditions of the permit.

Response to comment 599:

The comment 599 requests an overview of the type of wastewater treatment system used at this site. The permit application contains detailed design calculations, engineering diagrams of the treatment system as well as examples of the system used throughout the US. The application is available on MDE's web portal. There is also an overview in the permit factsheet provided here.

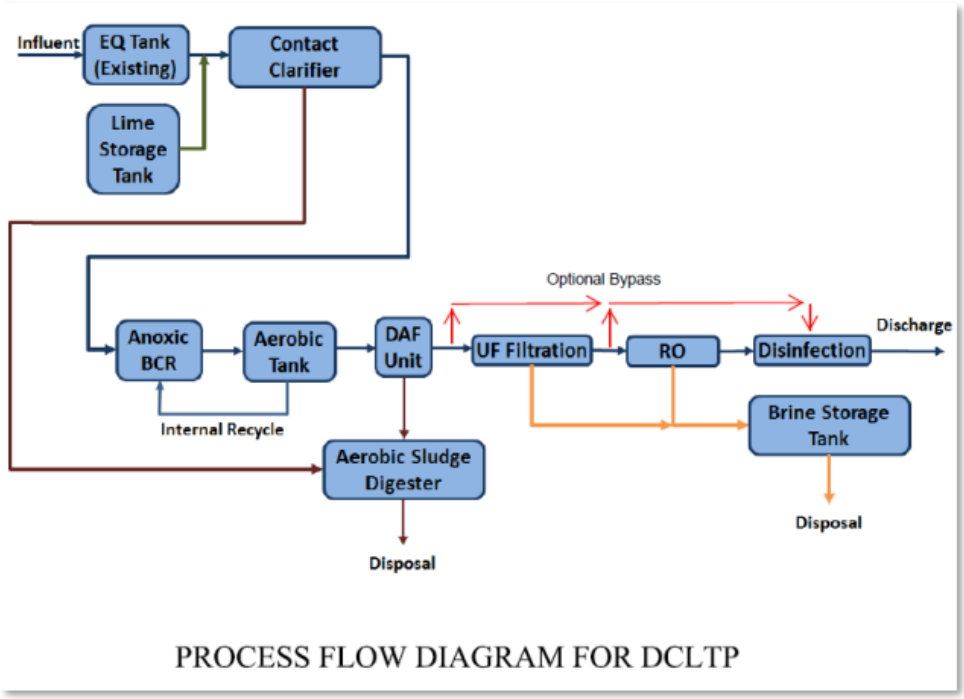

Diagram 1 - Days Cove Rubble leachate treatment plant process flow diagram

Response to comment 600:

Comment 600 refers to the permit as a proposed permit modification and asks if the Army Corps of Engineers was involved in the permit. This is a permit renewal, not a modification. The Army Corps of Engineers is not consulted as a part of an NPDES permit renewal. Consultation with the Army Corps of Engineers is more common for construction within navigable waters.

Response to comment 601:

The comment 601 asks if this is a modification or renewal. This site currently holds an administratively continued discharge permit. As required by the permit, they timely submitted their required renewal. The draft permit is the proposed renewal of their current permit. Modifications are done to active permits that require changes that occur before expiration. Renewal permits contain many updates, but are not considered modifications. In other words, the final permit is a renewal and not a modification.

Response to comments 602:

Comment 602 asks if the operator is requesting any waivers or exceptions. No waivers or exceptions to regulations or codes were applied for regarding this permit renewal.

Response to comments 603:

Comment 603 asks how a facility built in 1982 can be allowed to increase discharges. NPDES permit renewals consider any changes to regulation or changes in the discharge and are subject to antidegradation and backsliding regulations. See RTC 470-472 regarding backsliding. Also see RTC 337-372 regarding proposed flow increase.

Response to comments 604-605:

Comments 604-605 ask about the design of ponds at the landfill. The North Basin No. 1 is designed to hold 118,904 cubic feet of total storage. This pond was designed and constructed as a part of the site's vertical expansion, and was authorized and permitted under that expansion. See RTC 465-468 regarding critical area laws for more details.

Response to comments 606-607:

Comments 606-607 ask about reporting and availability of discharge data. This site is required to monitor and report a plethora of data. Please refer to the permit, fact sheet and also the site's discharge monitoring reports (which are publicly available through the EPA's ECHO website https://echo.epa.gov/).

Response to comments 608:

Comment 608 asks about how rubble from the 70's and 80's degrade over time, and if they become more toxic. The permit is designed to ensure that, over time, the discharges of effluent always comply with the most up to date regulations. This is part of the rationale for requiring periodic permit renewals.

Response to comments 609-610:

Comment 609-610 asks about when the notice of the public hearing was published, about past violations and where this extra water is coming from. The public hearing information was publicized in the Baltimore County section of the Baltimore Sun, which complies with COMAR. See RTC 369-401 regarding public notices for further discussion. For information on past violations please see RTC 154-186. All wastewater collected from the lined portion of the landfill is treated and discharged according to the conditions and terms of this discharge permit. Before April 2023, when the WWTP was operational, the site elected to haul their effluent offsite; after April 2023 the site has been discharging their treated effluent to receiving waters under the conditions of their current permit.

Response to comments 611:

Comment 611 includes questions about lowering standards, unlined landfill and levees. No federal or state standards were lowered as a part of this permit renewal. The portion of the site that is permitted under the permit in question *is lined.* MDE Land and Materials Administration issued a separate groundwater permit for the unlined portions of the landfill. That underwent public notice, and a May 13, 2025 public hearing including publication on the Department's website; "https://mde.maryland.gov/programs/land/WasteManagement/Pages/DaysCoveRubbleLandfill.aspx". Each permit goes through the same legal requirement to engage with the public commenters. Regarding if levees will be required to deal with collapses which is referenced by the commenter: this permit is specific to discharges from the treatment system, and doesn't address the design of the landfill.

Grouping – Specific Suggestions

The comments 612-629 offer specific suggestions related to the permit and landfill.

Response to comment 612-613:

The EPA NPDES Permit Writers Manual (the Manual) advises that a highly variable discharge should require more frequent monitoring than a discharge that is relatively consistent. The Manual also recommends considering the site's compliance history; a site with problems achieving compliance should in general perform more frequent monitoring. Besides the initial exceedances (see RTC 154-186 regarding noncompliance for more details) the site has been discharging effluent that meets permit limits and conditions. Further, a look at the site's DMRs (see Fact Sheet [VI. Results of a Review of Compliance History] for more details) shows that the effluent the site discharges is relatively consistent. Based on this the monitoring frequency of 1/month will remain in the final determination of this permit. See RTC 615 for further details of the updated monitoring requirements related to TN and Ph.

See RTC 337-372 regarding volume and flow increase for discussion of the annual average flow.

See RTC 508-510 regarding discharge should meet drinking water standards for a discussion of the drinking water standards and how they relate to this permit.

Inspection schedules are outside the purview of this permit.

Response to comment 614:

Comment 614 suggests that the permit be issued only if it requires further reductions of nutrients, heavy metals and other chemicals of concern, like PCBs. The Department has set limits on several chemicals of concern, based on best professional judgement, water quality standards, and the landfill ELG. The receiving waters in question are indeed impaired for PCBs; coupled with the fact that the site's Stormwater Pollution Prevention Plan (SWPPP) self-identifies the site as possibly containing PCBs the site's general permit registration (20SR3374) will be updated to include PCB monitoring. The general permit was chosen as the vehicle to address PCBs because several outfalls, including the one outfall covered under this permit, will be monitored. This would be a more comprehensive monitoring plan than could be completed under this permit.

See RTC 484-503 regarding TMDL for further details regarding reduction of nutrients.

Response to comment 615:

Comment 615 requests that nutrient sampling be composite instead of grab samples. Under the current permit, the permittee is required to collect grab samples for total nitrogen with a frequency of analysis of 1/month. The EPA's NPDES Permit Writers Manual (the Manual) advises that composite sampling be used when loading measurement (per unit of time) is needed.

Further the Manual directs the permit writer to use grab sampling to monitor effluent that does not discharge on a continuous basis. Based on the fact that Days Cove discharges continuously and has loading limits for both total nitrogen (TN) and phosphorus (Ph) the final determination of this permit will include the requirement for the site to use composite sampling when collecting TN and TP samples. The permittee is instructed to report the results for TN and TP from a combination of individual grab samples representative of a one-week period.

Response to comment 616-617:

Comments 616-617 deal with reducing flow. See RTC 337-372 regarding volume and flow increase for discussion of the annual average flow.

Response to comment 618-622:

Comments 618-622 suggest that the facility return to trucking the effluent away to another community or wastewater treatment plant. The facility has requested treating and discharging with appropriate water quality based limits instead of hauling this to another watershed or treatment plant. This resulted in this NPDES permit with limits and conditions that are tailored to the site. The site already has a treatment facility, which is how the effluent is treated to the state's water quality criteria before discharge.

Response to comment 623-625:

Comments 623-625 suggest that the discharge permit requires no discharge as an alternative, or that they get the water treated at a wastewater treatment facility that treats PFAS. The facility has an advanced treatment system. The proposed renewal NPDES permit includes limits and conditions that are tailored to the site. See RTC 618-622 for right to discharge. The critical limiting factor is based on the wasteload allocation for total nitrogen, which once met will require alternatives to discharging.

Response to comment 626-627:

Comments 626-627 suggest the landfill be shutdown and replaced by a protected environmental sanctuary. The suggestions in these comments are outside the purview of this permit.

Response to comment 628:

Comment 628 suggests that Maryland is a leader in recycling, composting and waste management, however permitting a landfill runs counter to goals of sustainability. These

comments do not specifically object to any terms in the permit that have not already been addressed in detail elsewhere and therefore are not being more specifically responded to here.

Response to comment 629:

Comment 629 requests a comprehensive environmental review, considerations of non-discharge solutions and a transparent and detailed plan explaining how well users and surrounding watersheds will be safeguarded. The first suggestion from this comment is outside the purview of the permit in question. The second is discussed in 596-598. The last one is one of the important considerations of the groundwater discharge permit. In addition to the discharge permit, the landfill operates under Refuse Disposal Permit 2024-WRF-0532A, which includes multiple safeguards. These include continuous groundwater and surface water monitoring under an approved G&SWM Plan, as well as a Methane Gas Monitoring Plan, prepared in accordance with COMAR 26.04.07.16A(14) and (15), with semiannual groundwater sampling and quarterly methane monitoring to protect human health and the environment.

CHANGES FOR THE FINAL PERMIT

The final permit will require composite sampling for total nitrogen (TN; includes ammonia) and phosphorus (TP) (Refer to I.A.1). Further, PCB monitoring is not a part of the final permit, but it has been added to the general permit related to this site (20SR3374).

11. TOPIC OF MULTIPLE COMMENTS: Form letter content

Grouping Summary:

Comments 630-639 each represent a set of identical form letters received by the Department from multiple commenters. The List of Comments document includes an example of each form letter, but, in order to avoid redundancy, the List of Comments does not include each individual letter received. The form letters contained the following requests (see List of Comments document for a full description of the form letters):

- Deny an increase in discharge volume
- Deny an increase in the ammonia concentration
- Deny an increase in nitrogen above the TMDL cap using credits from closed facilities
- Require a no discharge alternative
- Require biomonitoring
- Require leachate be treated to drinking water standards
- Require weekly grab samples
- Require that the discharge not occur in the critical area
- Require PCB monitoring
- Require iron monitoring

- Require that all discharges count towards the total nitrogen volume of the permit (even if it is trucked away or used as dust suppressant)
- Require the facility assess water quality in the receiving waters
- Require the facility to steps to protect Endangered Species

.. Another comment suggests setting numeric limits for several parameters, requests that financial assurance/bonding for failures and a clear enforcement framework be included in the permit and ban discharges during certain scenarios.

Response to comment 630:

The comments in this set of letters have been addressed in preceding responses to other similar comments, cross-referenced below:

See RTC 337-372 regarding volume and flow increase for more details.

See RTC 473-477 regarding ammonia limits for more details.

See RTC 484-502 regarding TMDL for more details.

See RTC 265-267 regarding Biomonitoring for more details.

See RTC 508-510 regarding treating effluent to drinking water standards for more details.

See RTC 612-613 for more details about sampling type and frequency.

See RTC 465-468 regarding the Critical Area legal concerns for more details.

See RTC 388-392 regarding using treated effluent for dust control for more details.

See RTC 507 regarding salinity data not representing Days Cove for more details.

See RTC 614 for more details on PCB monitoring.

The Department has set limits on several chemicals of concern, based on best professional judgement, water quality standards and the landfill ELG and after reviewing their application and monitoring data. Iron is already monitored at this site, for several outfalls, under the 20SW general permit.

Response to comment 631:

The comments in this set of letters have been addressed in preceding responses to other similar comments, cross-referenced below:

See RTC 618-622 for more details about the permittees legal right to discharge.

See RTC 265-267 regarding Biomonitoring for more details.

See RTC 508-510 regarding treating effluent to drinking water standards for more details.

See RTC 612-613 for more details on sampling frequency.

See RTC 465-468 regarding the Critical Area legal concerns for more details.

See RTC 473-477 regarding Endangered Species for more details.

See RTC 614 for more details on PCB monitoring.

See RTC 586 for more details on sampling frequency.

The Department has set limits on several chemicals of concern, based on best professional judgement, water quality standards and the landfill ELG. Iron is already monitored at this site, for several outfalls, under the 20SW general permit.

Response to comment 632:

The comments in this set of letters have been addressed in preceding responses to other similar comments, cross-referenced below:

See RTC 618-622 for more details about the permittees legal right to discharge.

See RTC 612-613 for more details about sampling type and frequency.

See RTC 361-365 regarding using treated effluent for dust control for more details.

See RTC 586 for more details on sampling frequency.

Response to comment 633:

The comments in this set of letters have been addressed in preceding responses to other similar comments, cross-referenced below:

See RTC 337-372 regarding volume and flow increase for more details.

See RTC 484-502 regarding TMDL for more details.

See RTC 618-622 for more details about the permittees legal right to discharge.

See RTC 65-267 regarding Biomonitoring for more details.

See RTC 508-510 regarding treating effluent to drinking water standards for more details.

See RTC 612-613 for more details about sampling type and frequency.

See RTC 65-468 regarding the Critical Area legal concerns for more details.

See RTC 388-392 regarding using treated effluent for dust control for more details.

See RTC 507 regarding salinity data not representing Days Cove for more details.

See RTC 614 for more details on PCB monitoring.

The Department has set limits on several chemicals of concern, based on best professional judgement, water quality standards and the landfill ELG. Iron is already monitored at this site, for several outfalls, under the 20SW general permit.

Response to comment 634:

The comments in this set of letters have been addressed in preceding responses to other similar comments, cross-referenced below:

See RTC 337-372 regarding volume and flow increase for more details.

See RTC 484-502 regarding TMDL for more details.

See RTC 618-622 for more details about the permittees legal right to discharge.

See RTC 65-267 regarding Biomonitoring for more details.

See RTC 508-510 regarding treating effluent to drinking water standards for more details.

See RTC 612-613 for more details about sampling type and frequency.

See RTC 65-468 regarding the Critical Area legal concerns for more details.

See RTC 388-392 regarding using treated effluent for dust control for more details.

See RTC 507 regarding salinity data not representing Days Cove for more details.

See RTC 614 for more details on PCB monitoring.

The Department has set limits on several chemicals of concern, based on best professional judgement, water quality standards and the landfill ELG. Iron is already monitored at this site, for several outfalls, under the 20SW general permit.

Response to comment 635:

The comments in this set of letters have been addressed in preceding responses to other similar comments, cross-referenced below:

See RTC 337-372 regarding volume and flow increase for more details.

See RTC 484-502 regarding TMDL for more details.

See RTC 618-622 for more details about the permittees legal right to discharge.

See RTC 65-267 regarding Biomonitoring for more details.

See RTC 508-510 regarding treating effluent to drinking water standards for more details.

See RTC 612-613 for more details about sampling type and frequency.

See RTC 65-468 regarding the Critical Area legal concerns for more details.

See RTC 388-392 regarding using treated effluent for dust control for more details.

See RTC 507 regarding salinity data not representing Days Cove for more details.

See RTC 614 for more details on PCB monitoring.

The Department has set limits on several chemicals of concern, based on best professional judgement, water quality standards and the landfill ELG. Iron is already monitored at this site, for several outfalls, under the 20SW general permit.

Response to comment 636:

See RTC 612-613 for more details on sampling frequency.

Response to comment 637:

The comments in this set of letters have been addressed in preceding responses to other similar comments, cross-referenced below:

See RTC 337-372 regarding volume and flow increase for more details.

See RTC 484-502 regarding TMDL for more details.

See RTC 618-622 for more details about the permittees legal right to discharge.

See RTC 65-267 regarding Biomonitoring for more details.

See RTC 508-510 regarding treating effluent to drinking water standards for more details.

See RTC 5612-613 for more details about sampling type and frequency.

See RTC 65-468 regarding the Critical Area legal concerns for more details.

See RTC 388-392 regarding using treated effluent for dust control for more details.

See RTC 507 regarding salinity data not representing Days Cove for more details.

See RTC 614 for more details on PCB monitoring.

The Department has set limits on several chemicals of concern, based on best professional judgement, water quality standards and the landfill ELG. Iron is already monitored at this site, for several outfalls, under the 20SW general permit.

Response to comment 638:

The comments in this set of letters have been addressed in preceding responses to other similar comments, cross-referenced below:

See RTC 337-372 regarding volume and flow increase for more details.

See RTC 484-502 regarding TMDL for more details.

See RTC 618-622 for more details about the permittees legal right to discharge.

See RTC 65-267 regarding Biomonitoring for more details.

See RTC 508-510 regarding treating effluent to drinking water standards for more details.

See RTC 5612-613 for more details about sampling type and frequency.

See RTC 65-468 regarding the Critical Area legal concerns for more details.

See RTC 388-392 regarding using treated effluent for dust control for more details.

See RTC 507 regarding salinity data not representing Days Cove for more details.

See RTC 614 for more details on PCB monitoring.

The Department has set limits on several chemicals of concern, based on best professional judgement, water quality standards and the landfill ELG. Iron is already monitored at this site, for several outfalls, under the 20SW general permit.

Response to comment 639:

See RTC 337-372 regarding volume and flow increase for more details.

These commenters suggest setting strict numeric limits for several parameters. The permit includes numeric effluent limits for arsenic, copper, nitrogen, BOD, and Ph that are consistent with water quality standards and other legal requirements. See the Fact Sheet, the Final Determination of this permit and RTC 484-502 regarding TMDL for more details.

See RTC 375-387 regarding permittee being able to sample effluent for more details. Effluent data for the site is publicly available via the EPA's ECHO website.

See RTC 268-307 regarding how permit addresses cumulative impacts.See RTC 154-186 regarding noncompliance and enforcement for more details about how the site dealt with their past exceedances.

See RTC 618-622 for more details about the permittees legal right to discharge.

Regarding financial assurance/bonding, this type of discussion is outside of the purview of this permit. See RTC 154-186 regarding noncompliance and enforcement for more details about how the site dealt with their past exceedances.

The permit already prohibits discharges during a scenario of bypass, unless certain conditions are met; see permit general conditions (II.B.5). All discharges during rain events and high-flow conditions are still required to meet the limits and conditions of the permit.

CHANGES FOR THE FINAL PERMIT

Changes are discussed in each of the portions of the RTC related to the topic. The cross references were provided for ease of finding those items.

12. TOPIC OF MULTIPLE COMMENTS: Dumbarton Middle School Comments

Grouping Summary:

The comments in this grouping were submitted by several middle school classes from Dumbarton Middle School. In general, they recap a recent field trip to the area surrounding Days Cove. Some students object to the permit and specifically point out the potential flow increase (the operator withdrew this request for an increase in the annual average flow) as well as the site's past violations as reasons to deny the permit.

Response to comments:

See RTC 337-372 regarding volume and flow increase for more details.

See RTC 154-186 regarding noncompliance for more details.

CHANGES FOR THE FINAL PERMIT

Changes are discussed in each of the portions of the RTC related to the topic. The cross references were provided for ease of finding those items.