



September 20, 2012

Maryland Department of the Environment
Sediment, Stormwater and Dam Safety Program
1800 Washington Boulevard
Baltimore, MD 21230
bclevenger@mde.state.md.us

Re: Comments on Draft MS4 Permit No. 11-DP-3315 / MD0068292 for Baltimore City, Maryland

Dear Mr. Clevenger:

1000 Friends appreciates the opportunity to comment on Draft Permit No. 11-DP-3315 / MD0068292, the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) discharge permit for the City of Baltimore ("the Draft Permit"). We believe that the Draft Permit is important for communities in Baltimore City who deserve clean water, healthy neighborhoods, and green cityscapes. The Draft Permit takes on even more significance given MDE's indications that it will serve as a model for others across the state. As such, the Draft Permit is critical for not just restoring local waterways and the Chesapeake Bay, but for sustainable communities across Maryland.

We generally support the comments submitted by the Natural Resources Defense Council on behalf of themselves and other concerned organizations. Those comments more fully document the water quality and legal issues surrounding the Draft Permit. We share their concerns that the Draft Permit in several aspects fails to meet the requirements of federal and state law, and is inadequate to control pollution and protect the region's waters from persistent, pervasive pollution from urban runoff.

Specifically, we support their concerns that:

- The Draft Permit's failure to ensure compliance with water quality standards and total maximum daily loads violates state and federal law. The Draft Permit must be revised to make clear that discharges from the permittee's MS4 that cause or contribute to the violation of water quality standards are prohibited, and to require that the MS4 must attain wasteload allocations by a date certain, in compliance with TMDL implementation plans (or "restoration plans") that MDE will approve and incorporate into the Draft Permit as an enforceable permit term.

- The Draft Permit fails to require the permittee to reduce its discharge of stormwater pollution to the maximum extent practicable for two reasons. First, the Draft Permit's restoration requirements fall short of MEP because they do not require the use of environmental site design (ESD) practices. Second, the Draft Permit's many vague requirements and lack of MDE review of permittee-developed programs cannot ensure that the permittee will *in fact* reduce its discharge of pollutants to the maximum extent practicable.
- The Draft Permit contains unlawful monitoring requirements that are completely insufficient to yield data representative of Baltimore City's stormwater discharges, or to assure compliance with the limitations contained within the Draft Permit.
- The Draft Permit unlawfully does not provide for public hearings on the permittee's watershed assessments or restoration plans. In addition, the Draft Permit makes no provision at all for public input on the permittee's stormwater management programs, in violation of Maryland law.

Taken holistically, the Draft Permit misses significant opportunities. It misses the chance to meaningfully connect the MS4 process to the WIP process, reinforcing both programs and streamlining restoration efforts at the local level. While a jurisdiction like Baltimore City might be able to manage the multiple and at times seemingly contradictory requirements of the two programs, there are certainly jurisdictions that will use the disconnection between the two as excuse not to act on either.

In addition, this permit emphasizes and requires programs, not results; process, not accomplishments. This focus reinforces the failed practices of the past two decades, a mindset and aim that have resulted in years of delay and inaction on restoring the Chesapeake Bay. The Bay region is currently charting a new course, a course focused on finally reaching pollution reduction outcomes. Maryland is supposed to be a leader in charting that new course and this permit veers drastically away from that critical new paradigm.

We believe the Draft Permit requires significant improvements before it is ready to be approved. We urge MDE to strengthen the Draft Permit to ensure that it will truly enable Baltimore City to reach clean water goals.

Sincerely,

Dru Schmidt-Perkins