Mr. Raymond Bahr

Maryland Department of the Environment

Water Management Administration

Sediment, Stormwater and Dam Safety Program

1800 Washington Blvd, STE 446

Baltimore. Maryland 21230=1708

March 13, 2015

Dear Mr. Bahr,

The undersigned participating organizations of the Maryland Stormwater Consortium are pleased to submit these comments on the NPDES, Phase I MS4 Permit for the Maryland State Highway Administration (SHA)(Permit Number 11-DP-3313, MD0068276).

This MS4 permit is the last such permit to be proposed for issuance in the current Phase I permit cycle and is an important permit because of the extensive area in Maryland which is controlled by SHA and because of the many watersheds and waterways which SHA activities affect. The significant impact on Maryland's waterways is reflected in the fact that this permit covers thirty-three basins for which there is an Environmental Protection Agency approved total maximum daily load (TMDL).

There is recognition that SHA has, in the last several years improved the way it has managed stormwater runoff from the impervious surfaces it creates. In traveling on Maryland highways and roads, one can see that more careful stormwater management has been utilized. There is recognition also that the proposed MS4 permit for SHA is an improvement over the last set of five year term, Phase I permits under which SHA and the ten jurisdictions were operating.

Now, we believe it is of critical importance to build upon these factors by taking the opportunity to prepare a superior permit. Maryland waterways and Chesapeake Bay require no less. The adverse impacts of stormwater runoff are

a growing phenomenon affecting water quality ever more negatively. We strongly agree with the Maryland Department of the Environment characterization of this MS4 permit as the "back bone" of the Chesapeake Bay TMDL and watershed improvement plan (WIP) implementation. Today we therefore offer recommendations to improve this permit just as we have offered such recommendations for the other Maryland Phase I MS4 permits.

We urge the following improvements be made to the permit to assure that its critical role in reducing the impacts of stormwater runoff on Maryland waterways and Chesapeake Bay is maximized:

That Section IV, be strengthened with language relating to specific waste load allocation (WLA) restoration plans

That the impervious cover restoration/retrofit plans for 20 percent of SHA's impervious surface area/cover be strengthened by requiring more use of Green Infrastructure/environmental site design

That the monitoring provisions in Section IV F require preparation of a monitoring plan

That the public participation provisions require the establishment of a stakeholders group

And that the erosion and sediment control provisions be given more attention

WLA restoration plans

One of the key improvements proposed for the SHA MS4 permit, and the jurisdictional permits, is that the requirments for preparation of WLA restoration plans be more specific and stronger. We therefore propose the following:

Final stormwater WLA attainment dates be set as the soonest possible date and be consistent with the deadlines associated with the Chesapeake Bay TMDL and Watershed Implementation Plans

Numeric benchmarks specify annual pollutant load reductions and be used to assess progress toward attainment of milestones and ultimate stormwater WLA attainment

Interim milestones be expressed as a pollutant load reduction with associated deadlines for attainment, be enforceable upon incorporation into the permit, and

be included where final attainment of stormwater WLAs requires more than five years. Milestone intervals will be as frequent as possible but will in no case be less frequent than every five (5) years

Establish a quantitative assessment of the SHA's current pollutant loadings using the information collected during the source identification process required in the permit. This assessment of current loadings shall serve as the base from which the pollutant load reductions called for in the County's compliance schedule shall be calculated

Where data indicate failure to meet any applicable stormwater WLA, including failure to attain any interim milestones or benchmarks, SHA is to make appropriate adjustments to its programs and controls within five (5) months to address these failures

Stormwater WLA restoration plans to be implemented using environmental site design (ESD) as the default methodology unless SHA can show that its use is impractical and that other methodologies, in conjunction with ESD, can achieve the TMDL/stormwater WLA goals, milestones and benchmarks

The public participation effort for the preparation and implementation of the stormwater WLA restoration plans is to include the participation of the watershed advocates and other watershed stakeholders in the process of selecting retrofit/restoration projects

In addition to these recommended additions to the permit, we recommend, for the sake of clarity, that the term "stormwater WLA" be used throughout the permit.

Impervious surface/cover restoration (the 20% requirement) The rmethodology for 20% impervious cover/surface restoration should be environmental site design (GI/LID) unless it is found to be impracticable to use this methodology alone and SHA has exhausted all reasonable opportunities to use ESD. SHA then may use other restoration techniques along with ESD to achieve the IC/IS restoration goal.

Monitoring Over the years that the current iteration of Phase I MS4 permits have been proposed and subject to public hearings and comment, it has been advocated that the monitoring activities described in the Assessment of Controls provisions of the permit be applied to more than just one watershed. To break this log jam, we propose that SHA, working with MDE, advocates, the design/consultant industry and other stakeholders, prepare, by one year, a monitoring plan which will provide more results from a broader watershed area covered by the SHA permit area by combining monitoring and modeling. We would be pleased to join this effort.

Public Participation

We propose that a stakeholders group be created to work with MDE on permit implementation. This group should be composed of a broad representation of advocates, the design/engineering industry, local community groups and other members.

Erosion and Sediment Control

Erosion and sediment control (ESC) should be given more attention in the SHA permit (and the others). An erosion and sediment control program should be able to keep records of site inspections and track violations from year to year with the goal being the reduction of violations so that the goal of 100% violation free inspections is reached. This goal can involve the public and a good way to do so is to adopt the Exposed Soil=Pollution protocol whereby citizens, from their cars

and without getting onto sites, can determine the efficacy of soil stabilization which is the most protective ESC practice. This methodology has been briefed to MDE by Richard Kline and, this past summer, many advocates visited quite a number of construction sites in Central Maryland and shared our findings with the local ESC inspection staff. We would be pleased to join MDE in getting this effort underway.

Thank you for the opportunity to provide our comments and recommendations to you. We look forward to seeing a stronger SHA Phase I MS4 permit and to working with SHA and MDE in its implementation.

Sincerely

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