

In the Matter of:

Maryland Department of the Environment

February 26, 2015
Public Hearing

Condensed Transcript with Word Index



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<p style="text-align: right;">1</p> <p>1 MARYLAND DEPARTMENT OF THE ENVIRONMENT</p> <p>2</p> <p>3</p> <p>4</p> <p>5 PUBLIC HEARING</p> <p>6</p> <p>7 MARYLAND'S STORMWATER MANAGEMENT PROGRAM</p> <p>8</p> <p>9 ISSUANCE OF MS4 PERMIT TO SHA</p> <p>10</p> <p>11</p> <p>12 FEBRUARY 26, 2015</p> <p>13</p> <p>14 5:00 p.m.</p> <p>15</p> <p>16</p> <p>17 MDE HEADQUARTERS</p> <p>18 1800 WASHINGTON BOULEVARD</p> <p>19 BALTIMORE, MARYLAND, 21230</p> <p>20</p> <p>21</p> <p>22 Reported by: William Alan Bodenstein</p>	<p style="text-align: right;">3</p> <p>1 P R O C E E D I N G S</p> <p>2 - - - - -</p> <p>3 MR. BAHR: Today is Thursday, February 26, 2015,</p> <p>4 and it is approximately 5 p.m. Today's public hearing is</p> <p>5 regarding the Maryland Department of the Environment's</p> <p>6 tentative determination to issue Maryland State Highway</p> <p>7 Administration a National Pollutant Discharge Elimination</p> <p>8 System, municipal separate storm system permit.</p> <p>9 My name is Raymond Bahr and I'm the Program</p> <p>10 Review Division Chief of the Sediment, Stormwater and Dam</p> <p>11 Safety Program within the MDE's Water Management</p> <p>12 Administration (WMA). With me tonight is Brian Clevenger, my</p> <p>13 boss, and Program Manager for Sediment, Stormwater and Dam</p> <p>14 Safety.</p> <p>15 Also here is Christina Lyerly and Michelle</p> <p>16 Arthur who are Natural Resource Planners within my division.</p> <p>17 We also have SHA represented here, Sonal Sanghavi, Karen</p> <p>18 Coffman, and Rob Shreve.</p> <p>19 Thank you all. And thanks to everybody at</p> <p>20 MDE. Stewart Comstock was in here a little bit earlier, and</p> <p>21 thanks to everybody who helped to set up these proceedings</p> <p>22 this evening.</p>
<p style="text-align: right;">2</p> <p>1 A T T E N D E E S</p> <p>2</p> <p>3 Mr. Raymond Bahr, MDE</p> <p>4 Mr. Brian Clevenger, MDE</p> <p>5 Ms. Christina Lyerly, MDE</p> <p>6 Ms. Michelle Arthur, MDE</p> <p>7 Ms. Sonal Sanghavi, SHA</p> <p>8 Ms. Karen Coffman, SHA</p> <p>9 Mr. Rob Shreve, SHA</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">4</p> <p>1 In accordance with Maryland's Administrative</p> <p>2 Procedures Act, a tentative determination to issue SHA an MS4</p> <p>3 permit has been advertised in the Baltimore Sun on Friday,</p> <p>4 December 26, 2014 and again on Friday, January 2, 2015.</p> <p>5 Additionally, the tentative determination</p> <p>6 notice was sent out to MDE's interested parties list for SHA</p> <p>7 and publicized on MDE's web page where the draft permit and</p> <p>8 supporting fact sheet material can be found.</p> <p>9 Anyone who signed the attendance sheet or to</p> <p>10 speak today will receive notice of any permit actions</p> <p>11 regarding SHA's permit. If you want to be on MDE's</p> <p>12 interested parties list for this permit, and did not sign up</p> <p>13 on the attendance sheet, please do so before you leave today.</p> <p>14 I have some prepared remarks that I would like</p> <p>15 to read into the record and after that I would like to give</p> <p>16 SHA, the permittee, an opportunity to comment, and then any</p> <p>17 local or State elected officials that desire to speak. After</p> <p>18 that we will work our way chronologically down the list of</p> <p>19 speakers that have signed up to give testimony today.</p> <p>20 Today's hearing is scheduled for two hours and</p> <p>21 I was going to say we'd like to keep all of the remarks</p> <p>22 concise, but since it looks like we're only going to have</p>

<p style="text-align: right;">5</p> <p>1 maybe one or two people speaking today, please take your time</p> <p>2 with your comments. Sometimes we have dozens of people and</p> <p>3 we try to ask people to keep their comments concise and to</p> <p>4 the point and on the permit.</p> <p>5 We would ask that you do that, but you can have</p> <p>6 some extra time tonight, since you're the only speaker so</p> <p>7 far. So with that, I'm going to go ahead and read these</p> <p>8 prepared remarks.</p> <p>9 The purpose of today's hearing is to accept</p> <p>10 public comment on MDE's Tentative Determination to Issue SHA</p> <p>11 a Municipal Separate Storm Sewer System MS4 permit. This</p> <p>12 hearing is being held to honor a request submitted on</p> <p>13 December 30, 2014 from Marian Dombroski, and again on January</p> <p>14 5, 2015 from Bruce Gilmore, who represents the Maryland</p> <p>15 Stormwater Consortium. This hearing allows MDE to meet its</p> <p>16 obligations under Maryland's Administrative Procedures Act.</p> <p>17 For background, Maryland has been delegated</p> <p>18 authority by the United States Environmental Protection</p> <p>19 Agency (EPA), to administer the National Pollutant Discharge</p> <p>20 Elimination System (NPDES) Program for the state.</p> <p>21 Final stormwater regulations were adopted by</p> <p>22 EPA in November 1990 according to Section 402(p) of the Clean</p>	<p style="text-align: right;">7</p> <p>1 entered the room at approximately 5:14. Welcome, Bruce.</p> <p>2 MR. GILMORE: My pleasure to be here. First of</p> <p>3 all, I live in Baltimore, but coming from southeast Baltimore</p> <p>4 to southwest Baltimore can sometimes be an adventure.</p> <p>5 MR. BAHR: Please let the record show that today it</p> <p>6 did snow and it is rush hour, so Bruce, it's okay that you're</p> <p>7 a little bit late, Bruce.</p> <p>8 So we were just in the middle of doing some</p> <p>9 background here, so I will continue. SHA's permit was</p> <p>10 reissued on October 25, 2005. Under this reissued permit,</p> <p>11 additional requirements were included for assessing water</p> <p>12 quality across the state's road network and implementing 25</p> <p>13 significant stormwater restoration projects from pervious</p> <p>14 areas that were not already managed to the maximum extent</p> <p>15 practicable.</p> <p>16 MPDES permits last for five years and a</p> <p>17 reapplication was required to be submitted as part of SHA's</p> <p>18 fourth year annual report. SHA submitted its fourth year</p> <p>19 annual report on October 25, 2009. Since that time, MDE has</p> <p>20 had numerous meetings.</p> <p>21 We've had many conversations with individual</p> <p>22 citizens, environmental advocates, the EPA, and other local</p>
<p style="text-align: right;">6</p> <p>1 Water Act. These regulations require in part, that owners of</p> <p>2 storm drain systems serving populations greater than 100,000</p> <p>3 apply for a Phase I NPDES, Municipal Stormwater permit.</p> <p>4 Based on the 1990 census of urban jurisdictions</p> <p>5 in the Baltimore and Washington Metropolitan area that the</p> <p>6 states road network traverses, MDE designated SHA as a Phase</p> <p>7 I MS4 entity.</p> <p>8 SHA then submitted a two-year, two-part</p> <p>9 application to MDE and was issued an initial MS4 permit on</p> <p>10 January 8, 1999. SHA's first permit laid the foundation for</p> <p>11 a comprehensive approach to control runoff.</p> <p>12 This was done by establishing the necessary</p> <p>13 legal authority, mapping, Storm Drain System Infrastructure,</p> <p>14 identifying sources of pollution, monitoring some of those to</p> <p>15 characterize urban runoff, enhancing existing erosion and</p> <p>16 sediment control and stormwater management programs and</p> <p>17 establishing new programs for providing education and</p> <p>18 eliminating illegal storm drain system discharges.</p> <p>19 This permit was reissued on October 25, 2005.</p> <p>20 I think we may have another participant. Sorry about that. I</p> <p>21 heard the door behind me rattling. And it's Mr. Bruce</p> <p>22 Gilmore. Let the record show that Mr. Bruce Gilmore has</p>	<p style="text-align: right;">8</p> <p>1 and state government officials, including SHA, that are</p> <p>2 affected by the MS4 Permit Program.</p> <p>3 The result of these meetings and conversations</p> <p>4 is a draft permit that we take up today. Yet more conditions</p> <p>5 have been added to this version of SHA's stormwater permit</p> <p>6 largely based on EPA-approved total maximum daily loads,</p> <p>7 TMDL's from permits to local water bodies and for nutrients</p> <p>8 in sediment of the Chesapeake Bay.</p> <p>9 The most significant permit condition is for</p> <p>10 the 20 percent restoration of impervious areas that have</p> <p>11 little or no stormwater controls within the five-year permit</p> <p>12 term.</p> <p>13 These and all other remaining permit</p> <p>14 conditions have been developed for abating the discharge of</p> <p>15 pollutants from SHA's storm drain system and working toward</p> <p>16 media states, receiving a lot of quality criteria.</p> <p>17 Now I would like to ask if anyone from SHA</p> <p>18 would like to add comments to the record at this point?</p> <p>19 FEMALE VOICE: No comment.</p> <p>20 MR. BAHR: Okay. Are there any local or</p> <p>21 state-elected officials that would like to speak before we</p> <p>22 get started with the rest of the public testimony?</p>

<p style="text-align: right;">9</p> <p>1 (No response.)</p> <p>2 MR. BAHR: No? Okay. Reading down the list</p> <p>3 here, it seems as if Marian Dombroski has signed up. She's</p> <p>4 the first one.</p> <p>5 Bruce, would you like to speak this evening as</p> <p>6 well?</p> <p>7 MR. GILMORE: Yes.</p> <p>8 MR. BAHR: Okay. So you can go after Marian.</p> <p>9 Can I ask that you state your name, and then you spell out</p> <p>10 your name for the reporter today, and then give your remarks.</p> <p>11 Thank you.</p> <p>12 COURT REPORTER: When you come to the</p> <p>13 microphone, give us your first and last name, and spell it,</p> <p>14 please.</p> <p>15 MS. DOMBROSKI: My name is Marian Dombroski.</p> <p>16 M-A-R-I-A-N D-O-M-B-R-O-S-K-I.</p> <p>17 COURT REPORTER: Thank you.</p> <p>18 MS. DOMBROSKI: I'm a 30-year resident of the</p> <p>19 State of Maryland. I live in Council District 5, which to my</p> <p>20 understanding is it's SHA District 3. I'm the Vice Chair for</p> <p>21 Prince George's County for the Anacostia Watershed, Citizens'</p> <p>22 Advisory Committee.</p>	<p style="text-align: right;">11</p> <p>1 potential of having a very positive impact on the health of</p> <p>2 my community and of our state.</p> <p>3 Living in an urban area, as I do, I see every</p> <p>4 day the impacts of our roadways and supporting</p> <p>5 infrastructure. My neighborhood is bound by the Baltimore-</p> <p>6 Washington Parkway (built the year I was born), Route 50, and</p> <p>7 Route 202, right in the middle, Ground Zero.</p> <p>8 The construction of these roadways drastically</p> <p>9 altered the hydrology of this corner of the Anacostia</p> <p>10 Watershed, and it's just one mile from the River.</p> <p>11 This permit is important to me on a very</p> <p>12 personal level. The condition of the two streams closest to</p> <p>13 me is tragic. In fact, Lower Beaverdam Creek has been</p> <p>14 identified as one of the most degraded in the Anacostia</p> <p>15 Watershed.</p> <p>16 I am happy to see many improvements over the</p> <p>17 last permit, and look forward to changes to our waterways</p> <p>18 that, I hope, will be for the better. I tried to organize my</p> <p>19 comments, more or less how the permit reads but I'm not</p> <p>20 making any promises.</p> <p>21 Probably the most physically evident</p> <p>22 challenge to clean water in my area is the lack of</p>
<p style="text-align: right;">10</p> <p>1 I am also a founding member of Friends of Lower</p> <p>2 Beaverdam and Friends of Quincy Run. These are small</p> <p>3 watersheds that they have a direct confluence at the</p> <p>4 Anacostia. So I'm one of our many citizens doing our part to</p> <p>5 restore the health of our local streams, the Anacostia River,</p> <p>6 and the Bay.</p> <p>7 We value our natural resources and support</p> <p>8 sustainable development practices for health, recreation,</p> <p>9 scenic and economic benefits to the community. Clean water</p> <p>10 is one of the greatest challenges of this century. We</p> <p>11 believe it is our responsibility to do all that we can to</p> <p>12 achieve it.</p> <p>13 The Clean Water Act was passed over 40 years</p> <p>14 ago. I was 18 years old. Did my first river cleanup two</p> <p>15 years before the Clean Water Act was passed. It's been a</p> <p>16 long wait.</p> <p>17 Many communities across the country ave made</p> <p>18 great strides towards achieving clean water. Boston and</p> <p>19 Denver, to name just two, have made their rivers swimmable.</p> <p>20 I hope we will soon do the same for ours.</p> <p>21 Thanks for the opportunity to speak at this</p> <p>22 hearing and provide input into this MS4 Permit which has the</p>	<p style="text-align: right;">12</p> <p>1 coordination efforts. This was recognized in the permit. I</p> <p>2 hope more consideration will be given to this critical issue.</p> <p>3</p> <p>4 Several agencies in my county issued an MOU</p> <p>5 this summer that aimed at facilitating permitting and</p> <p>6 declaring Prince George's County as Open for Business. Sadly</p> <p>7 excluded from this group was our Department of the</p> <p>8 Environment. I hope a similar interagency effort can be</p> <p>9 conducted for our Clean Water Program. We need to move</p> <p>10 forward for the Bay - together.</p> <p>11 I just went to a partners meeting yesterday</p> <p>12 for a big project that's being done in Bladensburg, and the</p> <p>13 contractor reported that if he hadn't been on the previous</p> <p>14 contract, he would have been doing a connection to an</p> <p>15 abandoned water pipe that had just been installed, a month</p> <p>16 before by WSSC.</p> <p>17 I mean it's hard. And I can understand the</p> <p>18 complexity but we're just getting our stuff together.</p> <p>19 So these are some of my specific concerns: If</p> <p>20 you could ID the state infrastructure - as you go, that would</p> <p>21 be really helpful to know. We've been putting little</p> <p>22 stickers on the storm drains, letting people know that the</p>

<p style="text-align: right;">13</p> <p>1 water goes to the Bay. If you could identify the pipes and 2 tell us where the water is coming from to the Bay, that would 3 be very helpful.</p> <p>4 Also if you could post signage similar to the 5 Planning Board notification. People are used to seeing that 6 when something is going on. They'll see an orange sign with 7 a date and phone number, so they can find out about it, and 8 people really do care. We're impacted really personally. 9 And we do actually have a lot of knowledge of the 10 communities, the community leaders, the conditions of the 11 watershed, and we don't want to call and complain. We just 12 want to help. And when a project is in progress, I know most 13 of them have a sign identifying the project. But a lot of 14 them don't also and people just know that the streets, if 15 they understood that it was part of a really positive project 16 I think there would be a lot more cooperation.</p> <p>17 In the permit it talks about water restoration 18 area, I think it would be really great if the SHA standard 19 details could be revisited and include some of the most 20 effective rainstorm water management techniques.</p> <p>21 A lot of the projects, the same old details are 22 being used and then we have to sort of go around our elbow to</p>	<p style="text-align: right;">15</p> <p>1 a lot of time looking at these plans, and it's so frustrating 2 to see a project installed that the day it's installed it 3 needs to be retrofit.</p> <p>4 So I know there's a lot of projects in the 5 pipeline. I know you guys are under a lot of pressure to 6 deliver them. But the big projects, I mean if they're under 7 the old regulations, we're just creating more problems.</p> <p>8 The permit requirements, it says show a 9 reduction of pollutants. If we're going to do that, more 10 waterways, at least one per watershed has to be monitored to 11 make this determination. Conditions in Montgomery County are 12 not the same as those in Prince George's County and Carroll 13 County, and any of the other counties. We all have our own 14 problems.</p> <p>15 Our watershed drained directly into the 16 Anacostia. If you fix one and don't fix another, it's like 17 restoring one window in a building and it doesn't make the 18 comfort any better. Anyway, the challenge is, let's start 19 monitoring Lower Beaver Dam Creek. That's the worst in the 20 watershed. Hopefully we'd see some improvements there.</p> <p>21 I would just want to stress. There are a lot 22 of groups that are doing monitoring that are counting trash,</p>
<p style="text-align: right;">14</p> <p>1 get to our thumb to try and retrofit them.</p> <p>2 The part about the stormwater system, oh yeah, this 3 blew me away. That Districts 1, 2 and 6 are being excluded. 4 I mean I understand they don't have that many people. They 5 will, and they need good roadway details as much as anyone 6 else does.</p> <p>7 Also, since your Districts are sort of an 8 internal thing, I guess if we plow through the website, we 9 could figure out which State Highway Districts we're in.</p> <p>10 But in the permit, it would be nice if we could 11 see what the districts were, so people could understand.</p> <p>12 More and more people are becoming aware that, 13 as you know, the normal person doesn't know that any of these 14 programs are going on, but little by little, the word is 15 spreading and people do actually look. Especially your 16 permit is short and easy to read. People look at them and 17 use them and it would be great to make it a little more 18 usable.</p> <p>19 And also, if you could revisit the major 20 projects that are in the pipeline. It's so frustrating. I 21 follow a lot of development and redevelopment. There's so 22 much going on in my county. I go to a lot of hearings, spend</p>	<p style="text-align: right;">16</p> <p>1 that are collecting trash and we don't have to reinvent the 2 wheel. That information is out there and if you or EPA or 3 someone could be kind of a clearing house, I think it would 4 save us all a lot of time and money.</p> <p>5 I was really happy to see that they're 6 planning to do 2.7" and plan to use woods in good condition 7 as a standard. We don't have a lot of woods in good 8 condition in my part of the watershed and it would be great 9 to have some after some of your projects are done.</p> <p>10 Litter and Floatables. It says evaluate current problems and 11 develop public outreach and education. A lot of people are 12 working on this. It's really frustrating to see so much 13 money being spent on education projects over and over again.</p> <p>14 We really need – I mean it's beyond that. It's 15 been over 40 years. We need action. We need money being 16 spent on things that actually have results. And the 17 education comes along with the completion of the projects.</p> <p>18 I do a lot of small watershed projects in my 19 watershed with regular people, and you do a little bit of 20 permeable paving and they get it. They don't have to have a 21 lot of flyers and stuff. I mean the trash in the Prince 22 George's County MS4 permit, the volunteer groups are a major</p>

<p style="text-align: right;">17</p> <p>1 part of their credit towards the trash can beyond.</p> <p>2 Give us some help. I take kids down into some</p> <p>3 of these streams that it's dangerous. And if we had a little</p> <p>4 bit of support rather than a lot of pamphlets and all. We</p> <p>5 try to get people to pick up some of the large, the bulk</p> <p>6 trash. Some of the stream banks are so steep and so</p> <p>7 dangerous that I don't feel comfortable taking people down</p> <p>8 there unless we have a number of adults.</p> <p>9 Things like that would be a real education.</p> <p>10 When you see your local fire guys, when you see your local</p> <p>11 police guys, your Boys and Girls Club guys down there helping</p> <p>12 the kids. It makes a huge impression.</p> <p>13 Okay. Watershed Assessments. There's a need</p> <p>14 for more detail in the public participation. I hate to be</p> <p>15 ragging here, but the announcement for this meeting, not</p> <p>16 everybody in this state reads the Baltimore paper. Anyway,</p> <p>17 if we could maybe try to get the word out a little bit to</p> <p>18 reach a larger audience.</p> <p>19 Anyway, if you could put in some more details</p> <p>20 about how the public can participate, if you could include</p> <p>21 that in the permit, that would help us a lot.</p> <p>22 Also, there wasn't any mention of the</p>	<p style="text-align: right;">19</p> <p>1 project selection is. We have a project we applied for a</p> <p>2 year and a half ago, just after the rebate program was</p> <p>3 passed. We have seen other projects being done. For some</p> <p>4 reason, our project isn't happening.</p> <p>5 So if we know that the rules are, it makes us</p> <p>6 feel a little bit better. It gives us a little more</p> <p>7 confidence in the program, and defines a really clear path</p> <p>8 for public participation. Too many times projects are</p> <p>9 developed without any notification or input from the</p> <p>10 community. We pay for the project and we live with the</p> <p>11 results. We're really trying for the same goals. So please</p> <p>12 make us partners.</p> <p>13 I hate to jab at you because I know the SHA is</p> <p>14 a really big organization and it's really apparent that you</p> <p>15 guys are putting a lot of thought and care into this program,</p> <p>16 but my personal experiences with the State Highway have been</p> <p>17 horrible.</p> <p>18 Any time there's land adjacent to one of our</p> <p>19 projects identified as State Highway's, everyone just takes a</p> <p>20 big gulp because it's just such a difficult organization to</p> <p>21 negotiate.</p> <p>22 But we asked a year and a half, every three or</p>
<p style="text-align: right;">18</p> <p>1 restoration plan, but I know a lot of the candidate projects</p> <p>2 there, so I think there's over 300 at the Lower Beaver Dam</p> <p>3 Creek Watershed alone. A lot of those are adjacent to SHA</p> <p>4 property. It would be great if we could knock some of those</p> <p>5 out. It's part of the work that SHA is doing. The projects</p> <p>6 have already been identified. Some of them have price tags</p> <p>7 on them. Admittedly they're five years old.</p> <p>8 But anyway, that would be really great. A lot</p> <p>9 of us are looking at those plans and trying to get the ball</p> <p>10 rolling. If you could distribute the protocol for assessment</p> <p>11 and monitoring included in the permit. Something. There's a</p> <p>12 lot of information out there and it would be good for</p> <p>13 everybody to be able to use the same methods.</p> <p>14 Also, we need to have access to your results</p> <p>15 too. It says that, you probably have the same intention, but</p> <p>16 it says the success of the iterations will be driven by</p> <p>17 assuring maintenance of water quality standard. We don't</p> <p>18 want to maintain the standard. We want to improve the</p> <p>19 standard.</p> <p>20 And then transparency. It's got to be a</p> <p>21 priority. This is something that we're having a really hard</p> <p>22 time with the County. We have no idea what the criterion for</p>	<p style="text-align: right;">20</p> <p>1 four months, we asked about the ownership of a bridge. We</p> <p>2 just wanted to paint the bridge. A year and a half and</p> <p>3 finally they came back and said that they weren't sure who</p> <p>4 owned it. I won't go into all of it here. Anyway, we've got</p> <p>5 to know how to work with you all.</p> <p>6 Any of the partner meetings we've ever been</p> <p>7 invited to, the project is already designed, and we're just</p> <p>8 told that this is what's going to happen and who to call if</p> <p>9 there's some kind of problem. And it's really frustrating,</p> <p>10 like it's not getting the problems in our area.</p> <p>11 The most recent plans I reviewed has a sidewalk</p> <p>12 ending in the middle of nowhere. If people walk down that</p> <p>13 sidewalk they're going to be walking into an extremely busy</p> <p>14 street with no other infrastructure. I mean, these are</p> <p>15 things that people in the community know, but for some reason</p> <p>16 it was overlooked in the plan.</p> <p>17 Bruce is a better person than I to tell you</p> <p>18 about all the ways that you can cooperate with communities.</p> <p>19 But anyway, thanks a lot. I'm sorry I probably look so sad.</p> <p>20 Thanks a lot.</p> <p>21 MR. BAHR: Thank you, Ms. Dombroski. Those</p> <p>22 comments were very good. Mr. Bruce Gilmore, would you like</p>

<p style="text-align: right;">21</p> <p>1 to speak this evening?</p> <p>2 MR. GILMORE: Thank you. My name is Bruce,</p> <p>3 B-R-U-C-E. Gilmore, G-I-L-M-O-R-E. I'm a Stormwater</p> <p>4 Consultant for a series of advocacy groups in Maryland,</p> <p>5 principally the Anacostia Watershed Society, but I also am</p> <p>6 Head Coordinator of the Maryland Stormwater Consortium and</p> <p>7 the Maryland Stormwater Consortium has been since 2005, an</p> <p>8 advocacy for strong MS4 permits and their strong</p> <p>9 implementation.</p> <p>10 This is the last permit which will be issued</p> <p>11 under the current cycle. It is remarkably similar to the</p> <p>12 permits for the jurisdictional permittees. So much of what</p> <p>13 I'm going to say tonight I've said in any number of other</p> <p>14 forums with respect to the content of the permit and how it</p> <p>15 should be strengthened.</p> <p>16 We are not going to back down from our view</p> <p>17 that the permit should be stronger. In fact, unfortunately,</p> <p>18 as some of the permittees, namely Baltimore City, Baltimore</p> <p>19 County, Anne Arundel County and Prince George's County, who</p> <p>20 have received their permits, they have begun the</p> <p>21 implementation effort.</p> <p>22 Their first effort is to put in place what are</p>	<p style="text-align: right;">23</p> <p>1 actual information, and actual problem solving for the local</p> <p>2 permittees who must implement these permits.</p> <p>3 Maybe public participation for MDE is not as</p> <p>4 significant, but as you get down to the lower county level,</p> <p>5 the knowledge basis for the County agencies is such that they</p> <p>6 need as much input from watershed groups and other</p> <p>7 stakeholders to describe the nature of the impairment, the</p> <p>8 nature of where projects should be located, the nature of</p> <p>9 what specific abatement is necessary to achieve the Waste</p> <p>10 Load Allocation.</p> <p>11 And Marian touched on this, and she is a prime</p> <p>12 example in her two watersheds. She could take the folks from</p> <p>13 Prince George's County out to these locations and show them</p> <p>14 where the specific problems are, where the causes of</p> <p>15 stormwater influx come into her watersheds, and how or where</p> <p>16 projects should be located to abate that.</p> <p>17 So that's an area that I think is cause for a</p> <p>18 lot greater attention. We also would like to point out that</p> <p>19 there's been the influence of rule making in Maryland in</p> <p>20 terms of erosion and sediment control in this permit. This</p> <p>21 permit requires that there be a sufficient erosion and</p> <p>22 sediment control program.</p>
<p style="text-align: right;">22</p> <p>1 called the Waste Load Allocation, WLA, restoration plans.</p> <p>2 As we have looked at those plans for</p> <p>3 specifically two of the jurisdictions, namely Baltimore City</p> <p>4 and some aspects of the plans for Prince George's County,</p> <p>5 there is a great need for improvement. And our concern is</p> <p>6 that the permit with respect to those restoration plans, is a</p> <p>7 little vague and allows a little too much flexibility and</p> <p>8 doesn't give enough guidance, doesn't hold the permittee to</p> <p>9 some specific deadlines and milestones to achieve the WLA.</p> <p>10 The achievement of the Waste Load Allocation</p> <p>11 is central to meeting the TMDL, the Stormwater TMDL's and the</p> <p>12 total TMDL's for the Bay, for more regional impaired streams.</p> <p>13 And therefore, what I say today may be familiar to MDE, but</p> <p>14 we're going to continue to say it until we see some better</p> <p>15 results.</p> <p>16 First, let me talk about public participation,</p> <p>17 and we believe that public participation has to be rather</p> <p>18 specific. It has to be more of a specific organizational</p> <p>19 accomplishment so that people get a sense that their input to</p> <p>20 both the permit preparation and the permit issuance process</p> <p>21 and more importantly, its implementation process, is more</p> <p>22 transparent, open, and they can contribute much more to</p>	<p style="text-align: right;">24</p> <p>1 What does sufficient mean? In this respect, I</p> <p>2 participated in a project with about 60 other colleagues this</p> <p>3 summer in which we went through projects, construction</p> <p>4 projects, which were in the beginning stages in the Central</p> <p>5 Maryland counties and Baltimore City.</p> <p>6 The protocol that we used was developed by</p> <p>7 Richard Klein and the Community and Environmental Defense</p> <p>8 Services. Essentially that protocol was to identify projects</p> <p>9 that were beginning, to notify the local erosion and sediment</p> <p>10 control entities that we were going to be looking at the</p> <p>11 projects. And then to say to them we were going to make a</p> <p>12 report about the projects, but we'd further come back and</p> <p>13 essentially we would be available to both the contractor and</p> <p>14 to the local county erosion and sediment control entity, and</p> <p>15 to MDE, if they're interested.</p> <p>16 And Richard in a meeting with several folks</p> <p>17 here and then shared the results. Essentially his project</p> <p>18 was called, I get my initials confused. But what we looked</p> <p>19 at was, we didn't want to make a big deal about encroaching</p> <p>20 on the project boundary.</p> <p>21 We wanted citizens literally to be able to sit</p> <p>22 in their cars and look at a project and say how much</p>

<p style="text-align: right;">25</p> <p>1 stabilization of open disturbed earth has there been.</p> <p>2 Because stabilization gives you the highest rate of stopping</p> <p>3 erosion.</p> <p>4 And so my view is that part of public</p> <p>5 participation should be that this project be used by citizens</p> <p>6 and by the local counties to judge how well their projects</p> <p>7 are being monitored and how successful they are in achieving</p> <p>8 100 percent of abatement of erosion from a lack of surplus</p> <p>9 stabilization.</p> <p>10 Now I'd like to turn to more detail about the</p> <p>11 Waste Load Allocation restoration plans. First, the final</p> <p>12 Stormwater Waste Load allocation attainment dates should be</p> <p>13 set as the soonest possible date, and shall be consistent</p> <p>14 with the deadlines associated with the Chesapeake Bay TMDL,</p> <p>15 and ultimate erosion implementation plans.</p> <p>16 So you have a complete circle of the</p> <p>17 requirement. Your WIP, your TMDL, and the permit are all</p> <p>18 together in terms of when the Waste Load Allocation should be</p> <p>19 met. Benchmarks should be used to specify annual pollutant</p> <p>20 load reduction and be used to assess progress toward</p> <p>21 attainment of milestones and ultimate waste load allocations.</p> <p>22 Interim milestones should be expressed as a</p>	<p style="text-align: right;">27</p> <p>1 stormwater pollution which is the rising cause of pollution</p> <p>2 in terms of impairing the Bay and all riverways.</p> <p>3 We also should have a more apparent</p> <p>4 assessment, quantitative assessment, of State Highway</p> <p>5 Administration's current pollutant loadings, so that</p> <p>6 essentially when source identification information is</p> <p>7 produced, the assessment or current loadings shall serve as</p> <p>8 the basis from which the pollutant load reductions are to be</p> <p>9 made. That sounds like a mouthful.</p> <p>10 But basically we believe that those should be</p> <p>11 set. They should be understood by everyone that looks at</p> <p>12 them. They should be apparent as to whether the base load</p> <p>13 and the difference between the base load and the reduction to</p> <p>14 meet the waste load allocation is necessary.</p> <p>15 And let me say that this is a real situation.</p> <p>16 First of all, one of the problems we found in our analysis of</p> <p>17 the restoration plant over in Prince George's County, is that</p> <p>18 they were trying to have moveable, what we call moveable</p> <p>19 waste load allocations.</p> <p>20 They were trying to change waste load</p> <p>21 allocations. You can't change a waste load allocation. A</p> <p>22 waste load allocation is set and it's approved by EPA.</p>
<p style="text-align: right;">26</p> <p>1 pollutant load reduction with associated deadlines for</p> <p>2 attainment to be enforceable upon incorporation into the</p> <p>3 permit and will be included where final attainment of</p> <p>4 Stormwater WLA's requires more than five years.</p> <p>5 There should be no guessing at the end of this</p> <p>6 permit term for State Highway Administration as to whether or</p> <p>7 not the WLA's they are to achieve are going to be met. The</p> <p>8 only way that you know they're going to be met is if you set</p> <p>9 up the milestones and the benchmarks.</p> <p>10 So as we go forward, we look at year two or</p> <p>11 year three of this permit, and say where is State Highway</p> <p>12 Administration in the goal for meeting the Waste Load</p> <p>13 Allocation? And not only making progress, but are they</p> <p>14 meeting the numerical benchmarks and milestones so that it is</p> <p>15 truth to power. It's they're going to make it or they</p> <p>16 aren't.</p> <p>17 And if they aren't, you'll inquire as to why</p> <p>18 they aren't. And you make them adjust their programs and the</p> <p>19 projects that they have so that they'll meet the Waste Load</p> <p>20 Allocation.</p> <p>21 The Waste Load Allocation was the backbone of</p> <p>22 this permit and this permit is the backbone of reducing</p>	<p style="text-align: right;">28</p> <p>1 That's the waste load allocation for this TMDL. EPA approves</p> <p>2 it. It's submitted. It's immutable. Where the changes are,</p> <p>3 obviously, is where's the base pollutant load and how much</p> <p>4 from the base to the waste load allocation are we? What's</p> <p>5 that difference? How is that difference moving as we move</p> <p>6 through the permit?</p> <p>7 And it's these numbers that are the very real</p> <p>8 backbone of how much progress is being made. So I think that</p> <p>9 there should be a clear iteration in all of the impaired</p> <p>10 riverways touched by the State Highway Administration. What</p> <p>11 is the background load that they're moving from to get the</p> <p>12 waste load allocation.</p> <p>13 We believe that Waste Load Allocation</p> <p>14 restoration plans should be implemented using environmental</p> <p>15 site design that will default methodology. Unless the State</p> <p>16 Highway Administration can show that its use is impractical,</p> <p>17 and in other methodologies in conjunction with ESD, can</p> <p>18 achieve the TMDL Stormwater Waste Load Allocation goals, its</p> <p>19 milestones and benchmarks.</p> <p>20 We also believe that the public participation</p> <p>21 effort for Stormwater Waste Load restoration plans should</p> <p>22 include the participation of watershed advocates and other</p>

<p style="text-align: right;">29</p> <p>1 watershed stakeholders in the process of selecting retrofit 2 and restoration projects. I'm repeating that, but I 3 mentioned that earlier.</p> <p>4 One of the things that I wrote to Ray about 5 and he was very kind to respond, was the use of the term 6 "Stormwater Waste Load Allocation" or "Applicable Waste Load 7 Allocation". I think that this terminology should be 8 consistent throughout the permit, so that whenever one sees 9 the term, Waste Load Allocation, in this permit which is an 10 MS4 permit, it ought to be preceded with the word 11 "Stormwater". So that everybody, the public and the 12 permittee is clear that it's not a guess as to what waste 13 load allocation is to be reduced. It's the one associated 14 with stormwater. And to say applicable or to leave it off in 15 the text of the permit makes it less clear.</p> <p>16 And I know, maybe I'm in the weeds on this but 17 I just suggest that for the sake of consistency and clarity, 18 that that terminology be used.</p> <p>19 I would like now to turn to the restoration of 20 20 percent of the impervious surface property that SHA owns. 21 This requirement means that the State Highway Administration 22 must determine the total amount of impervious cover or</p>	<p style="text-align: right;">31</p> <p>1 loadings are more likely to be reduced when using those 2 methodologies.</p> <p>3 So that is something that we think should be 4 emphasized more greatly and a higher use of that should be 5 required. I don't think that we'll ever reach 100 6 percent, but it should be more than is being used now.</p> <p>7 Monitoring. This has been a stumbling block 8 for many years between advocates and MDE and others. We came 9 upon a solution with Prince George's County and we advocate 10 that same solution for the State Highway Administration.</p> <p>11 We believe to break this logjam that State 12 Highway working with advocacy, stakeholders, consultants, 13 design industry, to prepare a monitoring program which will 14 provide more results from the broader watershed area by 15 combining monitoring with modeling. It shouldn't be 16 exclusive one or the other. It should be both.</p> <p>17 But there is no excuse, given what we know and 18 how we can go about this, that we are confining to one 19 watershed, one watershed for this whole permit for State 20 Highway Administration. And instead, we would like this to 21 be an open process where we sit down together and hash out 22 how monitoring should be done. Because the only way that you</p>
<p style="text-align: right;">30</p> <p>1 impervious surface that it controls and must reduce that 2 imperviousness 20 percent of that property within the terms 3 of this five-year permit.</p> <p>4 Plus, if it had other properties that were not 5 reduced from previous permits, those are to also be brought 6 under this permit and those reductions made.</p> <p>7 We believe, again, that the restoration 8 methodology for the 20 percent impervious cover restoration 9 should be Environmental Site Design using evapotranspiration 10 and infiltration unless it is impractical to use this 11 methodology and State Highway Administration has exhausted 12 all reasonable opportunity to use ESD and it can show to the 13 maximum extent practical that its restoration using other 14 non-ESD methodologies are going to achieve the same results.</p> <p>15 The science on the use of Environmental Site 16 Design is becoming more and more sound. It is now one of the 17 leading experts on restoration and saving watersheds. The 18 Chesapeake Stormwater Network and its BMP contest is really 19 aiming that contest for designers and engineers at ESD and 20 green infrastructure methodologies.</p> <p>21 Those methodologies, we believe, and the 22 science shows in some of its EPA science, that polluted</p>	<p style="text-align: right;">32</p> <p>1 will know if you're going to meet waste load allocations, 2 which is the heart of this permit, is if the progress that 3 you're making can be measured and monitored and be shown to 4 be making sound numerical progress.</p> <p>5 And upon that, I am happy to be here today. I 6 appreciate you holding the hearing today in the evening. I'm 7 sorry I was late. Some of my colleagues came from Montgomery 8 County, and got here sooner than I did, and I apologize for 9 that. Thank you very much.</p> <p>10 MR. BAHR: Thank you, Mr. Gilmore. Does 11 anyone else wish to speak? Okay. Anybody that wants 12 to submit written testimony after today can do so up until 13 Friday, March 6, 2015.</p> <p>14 Comments can be submitted to me, Mr. Raymond 15 Bahr, Maryland Department of the Environment, Water 16 Management Administration, Sediment, Stormwater and Dam 17 Safety Program, 1800 Washington Boulevard, Suite 440, 18 Baltimore, Maryland, 21230-1708, or at 19 raymond.bahr@maryland.gov.</p> <p>20 Additional information on this draft permit, 21 fact sheet, and stormwater management in Maryland can be 22 found on MDE's website, www.mde.maryland.gov.</p>

<p style="text-align: right;">33</p> <p>1 After the comment period has closed on March</p> <p>2 6, 2015, MDE will develop a response to comments document</p> <p>3 that will support a final determination to issue SHA and MS4</p> <p>4 permit.</p> <p>5 Anyone who signed up on our attendance sheet</p> <p>6 today or gave testimony will be added to MDE's interested</p> <p>7 parties list for SHA and will be kept apprised of all permit</p> <p>8 actions via email announcements.</p> <p>9 If anyone has not yet signed up on the</p> <p>10 attendance sheet but would like to receive updates, please</p> <p>11 sign in after this public hearing has concluded. With that,</p> <p>12 I'd like to thank everybody for attending this public</p> <p>13 hearing. I see that Mr. Gilmore would like to add one more</p> <p>14 comment.</p> <p>15 MR. GILMORE: Yes. I was wondering if it</p> <p>16 would be possible to extend the close of the record for no</p> <p>17 more than a week, because many of my colleagues, they told me</p> <p>18 that they're going to be submitting a statement for the</p> <p>19 record. They couldn't be here today and they're heavily</p> <p>20 involved in the Maryland General Assembly, and I was</p> <p>21 wondering if that could be, in deference to them, they could</p> <p>22 given a week?</p>	<p style="text-align: right;">35</p> <p>1 (THE FOLLOWING WAS RETYPED FROM A TYPEWRITTEN PAGE</p> <p>2 SUBMITTED BY MARIAN DOMBROSKI WHO TESTIFIED IN PERSON)</p> <p>3 IT WAS REQUESTED TO BE MADE PART OF THE RECORD OF THE</p> <p>4 PUBLIC HEARING HELD ON THE EVENING OF FEBRUARY 26, 2015.</p> <p>5</p> <p>6 Public Hearing: SHA MS4 Permit - #11-DP-3313 (MDOO68276</p> <p>7 022615</p> <p>8 5 pm MDE's Terra Conference Room 1800 Washington Blvd.</p> <p>9 Baltimore, MD 21230</p> <p>10 Testimony delivered by:</p> <p>11 Marian Dombroski, RA LEED AP 6205 Lombard Street</p> <p>12 Cheverly, MD 20785</p> <p>13 - AWCAC - Vice Chair for Prince George's County, Maryland</p> <p>14 representing Friends of Quincy Run Watershed</p> <p>15 30-year resident of Prince George's County, Maryland</p> <p>16 Council District 5, SHA District 3</p> <p>17 -----</p> <p>18 I am a founding member of Friends of Lower</p> <p>19 Beaverdam Creek, Friends of Quincy Run and AWCAC Vice Chair</p> <p>20 for Prince George's County. I am one of many</p> <p>21 citizens doing our part to restore the health of our local</p> <p>22 streams, the Anacostia River, and the Chesapeake Bay. We</p>
<p style="text-align: right;">34</p> <p>1 MR. BAHR: I think that sounds fair and</p> <p>2 reasonable. Pick a date.</p> <p>3 th</p> <p>4 MR. GILMORE: Well, what's the 13 . That's</p> <p>5 not a Friday, I hope not.</p> <p>6 (Off the record.)</p> <p>7 MR. BAHR: What we'll do is we'll go ahead</p> <p>8 and MDE will take this under consultation and we'll let</p> <p>9 everybody on the interested parties list know. The request</p> <p>10 was to extend it by a week. I think that we can honor that</p> <p>11 and we'll circulate that information to the group.</p> <p>12 MR. GILMORE: That actually does fall on</p> <p>13 th</p> <p>14 Friday the 13 . That would be fine with us.</p> <p>15 MR. BAHR: Okay. We'll let you know.</p> <p>16 MR. GILMORE: Thank you.</p> <p>17 MR. BAHR: Thank you, Bruce. Anything else?</p> <p>18 Okay. I'd like to thank everybody for attending this very</p> <p>19 important meeting. Thank you.</p> <p>20 (Whereupon, the public hearing</p> <p>21 concluded at 6:00 p.m.</p> <p>22</p>	<p style="text-align: right;">36</p> <p>1 value our natural areas, and support sustainable development</p> <p>2 practices for health, recreational, scenic, and economic</p> <p>3 benefits to the community. Clean water is one of the</p> <p>4 greatest challenges of this century. We believe it is our</p> <p>5 responsibility to do all that we can to achieve it. The</p> <p>6 Clean Water Act was passed over 40 years ago. Many</p> <p>7 communities across our country have made great strides</p> <p>8 towards achieving clean water. Boston and Denver, to name</p> <p>9 just two, have made their rivers swimmable. I hope we soon</p> <p>10 do the same for ours.</p> <p>11 Thank you for the opportunity to speak at this</p> <p>12 hearing and provide input into this MS4 Permit which has the</p> <p>13 potential of having a very positive impact on the health of</p> <p>14 my community and of our state. Living in an urban area, as I</p> <p>15 do, I see every day the impacts of our roadways and</p> <p>16 supporting infrastructure.</p> <p>17 My neighborhood is bound by the Baltimore-</p> <p>18 Washington Parkway (built the year I was born), Route 50, and</p> <p>19 Route 202. The construction of these roadways drastically</p> <p>20 altered the hydrology of this corner of the Anacostia</p> <p>21 Watershed, just 1 mile from the River itself.</p> <p>22 This permit is important to me on a very personal</p>

<p style="text-align: right;">37</p> <p>1 level. The condition of the 2 streams closest to me is</p> <p>2 tragic. In fact, Lower Beaverdam Creek has been identified</p> <p>3 as the most degraded in the Anacostia Watershed.</p> <p>4 I am happy to see many improvements over the last</p> <p>5 permit, and look forward to changes to our waterways that, I</p> <p>6 hope, will be for the better. I tried to follow the</p> <p>7 organization of the permit when putting my remarks together,</p> <p>8 but am not making any promises.</p> <p>9 Probably the most physically evident challenges to</p> <p>10 clean water in my area is the lack of coordination of</p> <p>11 efforts. This was recognized in the permit. I hope more</p> <p>12 consideration will be given to this critical issue. Several</p> <p>13 agencies in my county issued an MOU this summer aimed at</p> <p>14 facilitating permitting and declaring Prince Georges's County</p> <p>15 as Open for Business. Sadly excluded from this group was our</p> <p>16 Department of the Environment. I hope a similar interagency</p> <p>17 effort will be undertaken for our clean water programs. We</p> <p>18 need to move forward for the Bay - together.</p> <p>19 Now quickly, here are some of my concerns:</p> <p>20 • Please ID all SHA infrastructure - like the storm drain</p> <p>21 stenciling program.</p> <p>22 • Post signage (similar to Planning Board notification) in</p>	<p style="text-align: right;">39</p> <p>1 LITTER AND FLOATABLES</p> <p>2 • "Evaluate current problems and develop public outreach</p> <p>3 and education". Many people are working on this.</p> <p>4 Please support, financially and otherwise, groups</p> <p>5 already doing this work.</p> <p>6 • Support volunteer efforts by supervising work in</p> <p>7 dangerous areas, helping to remove bulk items at</p> <p>8 community clean-ups. Support work on development of</p> <p>9 trash traps.</p> <p>10 WATERSHED ASSESSMENTS</p> <p>11 • Needs more detail and provision for public</p> <p>12 participation.</p> <p>13 • Review the Restoration Plan prepared by the Corps of</p> <p>14 Engineers to aid in project selection.</p> <p>15 • Distribute protocol for assessment and monitoring.</p> <p>16 • Make SHA results available to the public.</p> <p>17 ENFORCEMENT</p> <p>18 • "successive iterations will be driven by assuring</p> <p>19 maintenance of water quality standard".</p> <p>20 • Goal must always be improvement until all waterways are</p> <p>21 safe, swimmable and fishable.</p> <p>22 TRANSPARENCY must be made a priority.</p>
<p style="text-align: right;">38</p> <p>1 areas "in-design" and allow for community input.</p> <p>2 • Direct all agencies working on public property to post</p> <p>3 signage identifying their agency and project.</p> <p>4 WATERSHED RESTORATION AREA</p> <p>5 • Add "revisit SHA standard details to include the most</p> <p>6 effective green SWM techniques".</p> <p>7 STORM WATER SYSTEM</p> <p>8 • Include all SHA property - do not exclude districts 1,</p> <p>9 2, and 6. All infrastructure must be designed and</p> <p>10 improved to protect our waterways.</p> <p>11 • Include maps in the permit indicating the SHA Districts.</p> <p>12 • Revisit major projects in the pipeline to find</p> <p>13 opportunities for improvement/incorporation of ESD</p> <p>14 features.</p> <p>15 PERMIT REQUIREMENTS</p> <p>16 • "Show a reduction of pollutants" More waterways, at</p> <p>17 least one per major watershed, must be monitored to make</p> <p>18 this determination. We challenge you to start with</p> <p>19 Lower Beaverdam Creek - the most degraded in the</p> <p>20 Anacostia.</p> <p>21 • So glad to hear that you plan to manage events to 2.7",</p> <p>22 and plan to use woods in good condition as the standard.</p>	<p style="text-align: right;">40</p> <p>1 Please include the following:</p> <p>2 • Criterion for project prioritization and selection.</p> <p>3 • Define a clear path for public participation.</p> <p>4 • Too many times projects are developed without any</p> <p>5 notification of or input from the community. We pay for</p> <p>6 these projects. WE live with the results. We are</p> <p>7 working toward the same goals. Please make us partners.</p> <p>8 - - - - -</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

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1 CERTIFICATE OF COURT REPORTER

2
3 I, William Alan Bodenstein, a Notary Public of
4 the State of Maryland, do hereby certify the foregoing
5 proceeding was recorded verbatim by me and this transcript is
6 a true record of the proceedings.

7 I further certify that I am not of counsel to any
8 of the parties, nor in any way interested in the outcome of
9 this action.

th

10 As witness my hand and notarial seal this 6 day
11 of March, 2015.

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14 WILLIAM ALAN BODENSTEIN, Court Reporter
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17 My Commission Expires: November 7, 2015
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