



Anacostia Watershed Citizens' Advisory Committee

Beaverdam Creek Watershed Watch Group
Citizens to Conserve and Restore Indian Creek
Eyes of Paint Branch
Friends of Lower Beaverdam Creek
Friends of Sligo Creek
Friends of Still Creek
Neighbors of the Northwest Branch
Pope Branch Park Restoration Alliance
Watts Branch Community Alliance

January 22, 2008

Shari T. Wilson, Secretary of the Environment
Maryland Department of Environment
1800 Washington Blvd.
Baltimore, MD 21230

Dear Secretary Wilson:

The Anacostia Watershed Citizens' Advisory Committee (AWCAC) was formed by the Anacostia Watershed Restoration Partnership to serve as its citizen arm. AWCAC is dedicated to the protection and restoration of the Anacostia River and all of its tributaries through education, stewardship and advocacy. AWCAC coordinates the activities of nine citizens' groups that work to restore and advocate on behalf of their Anacostia watersheds, including seven groups in Maryland. We are carefully following the Maryland Department of the Environment's (MDE) process as it develops regulations and standards to implement the Stormwater Management Act of 2007 and certainly appreciate your efforts to protect and restore Maryland's waters. We would like to meet with you to discuss how the Act can benefit the Anacostia watershed.

We believe the new law is a very important opportunity to help restore Maryland's polluted waters from the streams in the Anacostia watershed to the Chesapeake Bay. We do not believe that urban and suburban watersheds that are already developed were intended to be left out.

As you probably know, the Anacostia watershed is severely impaired by existing sources of stormwater:

- Stormwater pollutants and peak flows from existing impervious surfaces are the predominant cause of biologic impairments, sediments, bacteria, and probably trash, in the Maryland portion of the Anacostia watershed—there are very few other sources. It has been estimated that stormwater washes approximately 70,000 tons of trash, sediment, and toxic pollution into the Anacostia River every year.
- About 75 percent of the sediments in the tidal river portion of the watershed come from stream bank erosion in Maryland as the result of flows from existing impervious surfaces.

With stormwater flows from existing development eroding away Maryland's Anacostia streams and since neither Maryland's or the District of Columbia's water quality standards are being met in the watershed, the potential for litigation is increasing. If these flows are not addressed, there will be no way for the Anacostia TMDLs to be implemented, which we consider MDE's duty.

The new law recognizes that the current regulations are inadequate. The current stormwater manual says: "Redevelopment projects are not required to meet the design standards and performance criteria established in this manual." The current regulation is also ineffective when it comes to requiring the retrofitting of flows during redevelopment or at other times. For redevelopment: COMAR 26.17.02.05 D focuses on a 20% reduction of impervious surface. This standard does not necessarily require a reduction in flows, just impervious surfaces. And there are several exceptions to this "requirement," including one that allows developers to pay a fee, with no

specific requirement that the fee be used to address flows in the watershed. It is our understanding that flows after redevelopment are seldom mitigated on or off-site.

At present, the proposed draft Chapter 5 of the Stormwater Manual states that potential sections on redevelopment and retrofit are “reserved.” We do not know whether your plans include addressing existing development at a later date and when that might be.

We believe that it would be very reasonable to mandate stormwater retrofits, where they are practicable, while allowing for the property owner to plan for the impact of the requirement. We think this is especially true in the case of commercial properties that generate revenue and must generally be refurbished fairly often. We also believe that the multiple benefits of practices such as green roofs, tree planting, cistern and rain barrel use, rain gardens, and similar practices should be considered in evaluating the costs and benefits of such a strategy for Maryland. In addition to measurably increasing the onsite infiltration or retention of runoff, these practices mitigate climate change, conserve energy and water, and provide health benefits related to the reduction of air pollution and urban heat island effects.

Recently we noted that Maryland’s Chesapeake Bay Tributary Strategy calls for up to 40% of “untreated” development to have stormwater retrofits through MS4 permit implementation. Has the MS4 approach worked in the past? How are local governments to implement the retrofits without guidance in Maryland’s stormwater manual and regulations? It would appear to us that it would be appropriate for MDE to lead the way by providing the specifics of the required retrofits.

We would like to understand your plan for addressing these issues. Unfortunately, neither Montgomery nor Prince George’s County were selected for one of MDE’s five focus groups to discuss the implementation of the Act. Therefore, we would like to come to meet with you by February 15 and understand your plans for the manual and regulation, so that we can discuss the plan during our forum on stormwater scheduled for February 23. Please call me, Mary Barber, at 202-728-2091 to arrange the meeting.

Thank you for your attention.

Sincerely,

Dr. Mary C. Barber,
Chair
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Mr. Dan Smith,
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Mr. Michael Smith,
Vice Chair, Montgomery County
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CC:

Anacostia Watershed Sponsors of the 2007
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