



Written Testimony of Mike Smith
on behalf of
The Anacostia Watershed Citizens Advisory Committee
on the Proposed Montgomery MS4 Permit
November 24, 2009

The following are the views of the Anacostia Watershed Citizens Advisory Committee (AWCAC) on the proposed Montgomery County MS4 Permit. I am the Vice Chairman of that group, which is a coalition of citizens' groups that provide stewardship to subwatersheds of the Anacostia. They include eight groups that care for and help restore Anacostia subwatersheds in Maryland, including the 400+ member Friends of Sligo Creek. I live near Sligo Creek and am an active member of the Friends and AWCAC. I also work closely with Montgomery Stormwater Partners and endorse the comments of Diane Cameron.

The Anacostia watershed and river are among the most polluted in the country. The watershed is officially listed as impaired by sediments, nutrients, trash, PCBs, and low dissolved oxygen. In Maryland, there are no important point sources, so the impairments are caused by stormwater. The USGS has determined that the Anacostia has 10 times more sediments than any other tributary of the Bay that they have studied. MDE determined, as part of its TMDL study, that 75% of the sediments come from streambank erosion. We are losing the streams and creeks that we love to the pollution and the erosion of stormwater.

Unless strong stormwater regulations and strong MS4 permits are put into place throughout the Anacostia watershed, there is no hope for restoring the Anacostia. In Montgomery County, we are fortunate to have strong stormwater regulations for development and redevelopment, which we wish that MDE would emulate in its upcoming stormwater regulation. We will strongly oppose any weakening of Montgomery County's development regulations, if any are proposed as a result of the review of its regulatory program required under this permit.

As to the proposed MS4 permit, we are happy that MDE and Montgomery County have proposed a fairly strong MS4 permit. We are especially grateful to Bob Hoyt and his staff for their work on this, as we know that the difficult task of implementing the permit will fall to them. We offer our support as they begin work and will help in any way that we can. To help implement the draft permit's public education provisions, we would like to cooperate with Montgomery County as volunteers to provide storm drain labeling that lists the name of the particular stream, as Friends of Rock Creek has recently done. Recent studies on public participation in stormwater and watershed restoration programs point to the need for education of the public in the name of the major subwatershed that drains their neighborhood.

While we are supportive of the proposed permit, there are a few areas that we would like to see improved. Let me briefly describe those.

First, on pages 8 and 9 of the draft permit, there is a requirement for the implementation of restoration of 30 percent of the County's impervious surfaces. We note that restoration includes Environmental Site Design (ESD), structural stormwater retrofitting, and stream channel restoration. While stream restoration may stabilize streambanks, our view is that the scientific community is increasingly questioning whether stream restoration really benefits the ecology of our streams. We think that the 30 percent retrofit requirement is pretty meaningless if it doesn't focus on the reduction of stormwater flows: ESD where it can be implemented and traditional stormwater control techniques where it can't. In some cases, it could even be harmful if "stream restoration" resulted in the armoring of our streams. MDE should not continue to allow stream restoration techniques that are not proven to do anything more than treat the symptom of the disease as an alternative to the actual reduction of stormwater pollution and flows. Fortunately, because of Montgomery County's strong stormwater regulations for development and redevelopment, we are more confident that the County is doing what it can to

address existing development, but we question this provision of the permit, unless it can be strengthened to favor ESD and other stormwater *reduction* techniques.

Second, we understand that an iterative approach is needed to meet water quality standards and the waste load allocations in TMDLs. But the permit does not presently contain ANY dates by which TMDLs will be met. This seems an odd regulatory approach—e.g. the regulatory agency would ask the permittee when it will meet the Clean Water Act's goals. We suggest the addition of specific deadlines toward which Montgomery County should work would be appropriate. At a minimum, if MDE is disinclined to put deadlines for meeting TMDLs in the permit, then the TMDL implementation plan referred to on page 12, which is to contain a schedule and a cost estimate for meeting Waste Load Allocation Benchmarks, should be made an enforceable part of the permit, once the plan is complete.

Finally, regarding the Trash TMDL, on page 5 of the draft permit, a work plan for implementing the Trash Treaty is required, which will contain a schedule. The schedule in the work plan will serve as the schedule for attaining the 2013 goal of a trash free Potomac. As noted above, Section J of the permit relating to TMDL implementation don't have specific deadlines, so the permit should be clarified that so will the 2013 goal applies to the attainment of the Trash TMDL, so that at the least attainment of the Trash TMDL has a clear deadline.

Thanks very much for listening to these comments and helping us to restore the Anacostia watershed.