



**DC APPLESEED**  
Solving DC Problems

# DC Appleseed's Draft Anacostia Restoration Report

Presentation to the Anacostia Watershed  
Restoration Partnership Steering Committee

August 26, 2010

# About DC Appleseed

- Nonprofit, public interest organization
- Independent and non-partisan
- Mission: DC Appleseed solves problems affecting the daily lives of those who live and work in the National Capital area
- Project teams operate with pro-bono support from law firms, accountants, and other professionals

# DC Appleseed's Anacostia Work

- Issued 1999 stormwater report that recommended DC adopt an impervious area charge
- Served on Anacostia Waterfront Corporation's Environmental Standards Development Committee and helped draft the environmental building standards that now govern the Anacostia Waterfront Development Zone
- Served on DC Stormwater Task Force, the recommendations of which resulted in DC's 2008 legislation for enhanced stormwater management
- Advocated for federal planning for Anacostia restoration, which helped result in direction for the Anacostia Watershed Restoration Plan in the Water Resources Development Act of 2007

# DC Appleseed's Anacostia Project Team

## Pro-bono support from:

- Covington & Burling
- Cornerstone Research
- Environmental Resources Management
- Hughes, Hubbard, & Reed
- Patton Boggs
- Summit Fund of Washington
- Weil, Gotshal, & Manges

# Anacostia Report Overview

## Report Contents:

- I. Review major pollution problems and existing clean-up obligations
- II. Identify impediments to Anacostia restoration
- III. Make key policy recommendations for accelerating clean-up
- IV. Document benefits that will flow from clean-up

## Research Methods:

- Review of existing studies on the Anacostia
- Analysis of existing legal and policy clean-up obligations
- Literature review of benefits and costs
- Interviews with over 40 experts and stakeholders

# I. Major Pollution Problems & Clean Up Obligations

## Major Pollution Problems

1. Uncontrolled Urban and Suburban Stormwater Runoff
2. Combined Sewer Overflows
3. Legacy Toxics

## Major Clean-Up Obligations and Efforts

- Stormwater (MS4) Permits
- Local Stormwater Regulations for New and Re-development
- Chesapeake Bay Executive Order and Legislative Initiative
- DC Water and WSSC Consent Decrees
- Anacostia Watershed Restoration Plan

## II. Remaining Impediments to a Healthy Watershed

1. Privately-owned impervious surfaces in need of stormwater upgrades
2. Insufficient local resources for high cost of clean-up
3. Divided jurisdictional authority over key restoration and land use decisions in the watershed
4. Inability to address toxic clean-up under the Clean Water Act without current discharge

# III. Preliminary Policy Recommendations

1. Four-part policy package to address stormwater
2. Strategy to address remediation of legacy toxics
3. Designate implementation of Anacostia clean-up strategies to Assistant Administrator-level authority within the EPA

*These recommendations are preliminary and open to feedback and change before report is finalized.*

### III. Preliminary Policy Recommendations—Stormwater

#### Four-Part Policy Package to Address Stormwater

Piloted in the Anacostia Watershed as an approach for other distressed watersheds with a heavy federal presence

1. New local codes and regulations for stormwater controls
2. Local incentives for upgraded stormwater controls on private land
3. Federal tax incentives for upgraded stormwater controls on private land\*
4. Federal impact payments to local governments for upgraded public infrastructure\*

*\*Conditioned on the adoption of new local codes and regulations*

### III. Preliminary Policy Recommendations—Stormwater

#### 1. New Local Codes and Regulations

- Codes for new construction and re-development requiring on-site retention and reuse
- Development rules requiring driveways, parking areas, and subdivision streets to provide for on-site retention
- Road codes requiring use of low impact development where feasible
- Code revisions approving use of stormwater in buildings for non-potable purposes
- Rules requiring impervious areas of a certain size to be retrofitted to provide for on-site stormwater retention
- Stormwater fees based on impervious surface areas

### III. Preliminary Policy Recommendations—Stormwater

#### 2. Local Incentives to Private Landholders

- Authorizing developer use of public right-of-way (the area below the sidewalk and possibly the street) for onsite stormwater storage
- Authorizing increased density for development if the developer achieves high levels of stormwater retention and re-use
- Authorizing use of a general permit for retrofits of existing impervious surface areas with low-impact development
- Discount on stormwater fee rate for property owners achieving high levels of water retention and re-use

## III. Preliminary Policy Recommendations—Stormwater

### 3. Federal Tax Incentives for Private Landowners

- **Federal tax credits**, modeled on energy tax credits, for property owners who install low-impact development stormwater control technologies
- **Accelerated federal tax depreciation** for the replacement of impervious surfaces with low-impact development stormwater control technologies
- Pre-conditioned on adoption of local codes

### III. Preliminary Policy Recommendations—Stormwater

#### 4. Federal Impact Payments to Local Governments

- Payment based on objective criteria associated with federal government's current and historic role as landowner and developer in the watershed
- Use of federal payments limited to public water quality infrastructure, such as candidate projects in the restoration plan and the combined sewer overflow long-term control plan
- Pre-conditioned on adoption of local codes

### III. Preliminary Policy Recommendations—Toxics

- Use Superfund as legal vehicle for comprehensive remediation of tidal river
- Defer listing of Anacostia sites on National Priority List during pendency of accelerated Remedial Investigation/Feasibility Study in exchange for government commitments to perform
- Determine estuary wide measures for ecological risk and recovery
- Include DC and Maryland as key parties to keep federal PRPs honest
- Establish EPA as lead on enforcement

### III. Preliminary Policy Recommendations—EPA Authority

- Designate implementation of Anacostia stormwater and toxics approaches to Assistant Administrator-level authority within the EPA
- Charged with working with local governments, State of Maryland, District of Columbia, and other federal agencies to implement recommended clean-up strategies
- Defer to EPA on the administrative structure that administrator uses to work with stakeholder government entities

# Questions, Comments, Feedback?

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