

**Virginia Soil and Water Conservation Board and Virginia Department of Conservation  
and Recreation**

**Public Hearing on County of Arlington Municipal Separate Storm Sewer System (MS4)  
Individual Permit – Authorization to Discharge Under the Federal Clean Water Act and  
the Virginia Stormwater Management Act**

**March 22, 2013 in Arlington (2100 Clarendon Blvd., Suite 710, Arlington, VA)**

**Meeting Officer:** Michelle Vucci  
Policy and Planning Assistant Director  
Department of Conservation and Recreation

**Opening:**

**Ms. Vucci:** I would like to call to order this public hearing regarding Arlington County's application for reissuance of a municipal separate storm sewer system (MS4) permit for the discharge of stormwater into multiple water bodies in the Potomac River Watershed. I am Michelle Vucci, Policy and Planning Assistant Director for the Department of Conservation and Recreation. I will be serving as today's meeting officer. I would like to thank Arlington County for allowing us to use this facility.

With me today is Ginny Snead, Regulatory Programs Manager from DCR's Stormwater Management Division, who will serve as our technical presenter; and Michael Fletcher our Board and Constituent Services Liaison who will take minutes of this hearing's proceedings. This meeting will be recorded.

I hope that all of you have registered on our attendance list. If not, please do so. Those wishing to speak should note that on the attendance list. Please also make sure that your contact information, including your name and address.

**Purpose of the public hearing:**

The purpose of this hearing is to receive input from interested citizens on this proposed MS4 individual permit reissuance during the public comment period, which closes on March 29, 2013. Pursuant to the federal Clean Water Act as amended and the Virginia Stormwater Management Act and its attendant regulations, the Virginia Soil and Water Conservation Board is considering the reissuance of a Virginia Stormwater Management Program (VSMP) Individual Permit for an MS4 operated by Arlington County.

The draft permit requires Arlington County to evaluate program compliance, the appropriateness of identified Best Management Practices (BMPs), progress towards achieving identified measurable goals, and to submit annual reports. The draft permit also requires Arlington County to address Total Maximum Daily Load (TMDL) Wasteload Allocations, including those associated with the Chesapeake Bay TMDL, and contains other conditions governing the

development, implementation, and reporting requirements of an MS4 Program. The preliminary decision of DCR, on behalf of the Board, is to recommend reissuance of the permit.

We do want to note that all public comments received at these hearings and during the comment period will be carefully considered by the Department and the Board.

This concludes my introductory remarks. At this time, I would like to ask Ginny Snead to provide a summary regarding the content of the regulations.

**Ms. Snead:**

Although many of you here may be already familiar with this draft Individual Permit, for those who are not, we thought it would be useful to provide a brief background on this action and to highlight the key portions of the draft permit. This presentation is a summary and you should consult the hard copy of the draft permit for specifics. I would also encourage you to review the fact sheet provided on the back table.

The draft individual permit authorizes point source discharges of stormwater runoff and certain non-stormwater discharges from the MS4 operated and owned by the County of Arlington. An MS4 is a conveyance or system of conveyances owned and/or operated by a public entity, which is designed or used to collect or convey stormwater runoff and is not part of a combined sewer system or publicly owned treatment works. This can include streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains that convey stormwater and ultimately discharge to receiving waters. An MS4 permit regulates the discharge from the municipally-owned or -operated storm sewer system and does not regulate the municipality itself.

This permit does not and is not intended to cover all stormwater discharges within the jurisdictional boundaries of the County. This permit covers solely discharges from municipal stormwater outfalls owned and operated by the County. Drainage from acreage that discharges into the MS4 is considered regulated acreage under this permit. Drainage from acreage that discharges to State waters through outfalls not owned and operated by the County are not considered part of the Arlington County MS4; and thus are not regulated under this permit.

This permit establishes conditions that refine the implementation of the County's long-term MS4 program in an iterative manner that represents reasonable further progress consistent with the water quality requirements established under the federal Clean Water Act. Conditions in this permit are generally in the form of comprehensive programs implemented on a system-wide basis to control sources of pollution rather than targeted treatment methods. At a local level, these types of programs consist of various components, including pollution prevention measures, management or removal techniques, stormwater monitoring, use of legal authority, and other appropriate means necessary to control the quality and quantity of stormwater discharged from the MS4.

In developing this draft permit, both DCR and the County considered the following:

- Consistency with state or local law or regulation;
- Utilization of existing authorities in the establishment of minimum standards;
- Flexibility in order to control pollutant discharges in a cost-effective manner; and
- Annual reporting requirements to be used as a mechanism for updating the MS4 Program Plan and keeping the public informed.

The draft permit contains special conditions and changes from the 2002 permit. I want to bring your attention to the fact that this draft permit does address TMDLs, which was not the case with the 2002 permit. This draft permit requires Arlington County to develop TMDL Action Plans for the Chesapeake Bay TMDL and TMDLs other than the Chesapeake Bay within 24 months of permit issuance. With the implementation of the Chesapeake Bay TMDL Action Plan, the Arlington County MS4 permit will provide greater protection to the Chesapeake Bay following commitments made in Virginia's Phase I and Phase II Watershed Implementation Plan (WIP) by requiring reductions in nitrogen, phosphorus and sediment discharged to the watershed. I encourage you to review pages 9 through 19 of the Fact Sheet at the back table for detailed information on all special conditions and changes from the 2002 permit.

The draft permit addresses requirements related to bacteriological monitoring, biological stream monitoring, floatables monitoring, and structural and source control compliance monitoring and tracking. Finally, the draft permit contains annual reporting requirements and provides that an MS4 Program Plan be available for public review.

More information on this individual draft permit can be found on DCR's website at the web address appearing on our handout on the back table, which also contains copies of both the draft permit and fact sheet. Public comment information is also included in the handout provided.

**Ms. Vucci:** Thank you, Ms. Snead.

Before we begin receiving testimony, I would like to emphasize that this is an information-gathering meeting where DCR is receiving comment on behalf of the Board. DCR will not be responding to any comments or questions received at this meeting but I want to emphasize that every comment received here today will be addressed.

Everyone wishing to speak will be heard. However, due to the number of individuals present we ask you to limit your comments to five minutes and to address information that others may not have already covered. For your information, the timer located at the front of the room will monitor your time. If necessary, we may need to ask speakers questions concerning their testimony or to request additional information concerning a subject believed to be important to the process in order to help clarify and properly capture your comments. Once the hearing is adjourned, DCR staff will be available to take any individual questions you may have.

We will now begin the public comment portion of the hearing. When I call your name, please come to the front. Please state your name and who you represent. If you have an extra copy of your

comments, please provide it to us so that it may be utilized in developing the minutes of this hearing.

### **Public Comment**

*Hedrick Belin, Potomac Conservancy*

Thank you for the opportunity to speak today about the proposed MS4 permit for Arlington County.

My name is Hedrick Belin and I am President of the Potomac Conservancy, which fights to improve the Potomac and its surrounding lands through conservation and advocacy. We have nearly 1,500 Friends of the Potomac here in Arlington as well as nearly 6,500 throughout the Commonwealth who serve as the voice of the nation's river, and they want to see a reduction in harmful effects of polluted runoff in their neighborhood streams, and creeks and joint me in calling for improvements to the current draft permit.

Our message today, we're going to submit longer written testimony for the record, but our message today to DCR and Soil and Water Conservation Districts is pretty simple. Results matter.

We've got to stay focused on the numeric pollution reduction goals. We've got to identify and implement the best strategies to achieve those pollution reduction goals.

When you're running a marathon you have to develop a plan appropriate to the distance and stay focused on executing this plan every day. Swimming and biking are great ways to stay healthy but they're not the best strategy if your goal is to run 26 miles. If we're going to go the distance in cleaning up Arlington's rivers and streams, as well as the Potomac River and the Chesapeake Bay we got to have a rigorous well executed plan.

Now in reviewing the current draft of this permit, or this current draft permit, we found several positive additions had been made in the past few months. We appreciate that. And certainly this permit could be a great tool for the entire state of Virginia for achieving our water quality goals.

But the permit in its current form isn't going to get Arlington, we don't believe, to its required water pollution reduction goals. And that's unacceptable to the Conservancy and to our membership.

Again, we'll go into more detail about some of the concerns in our written comments. But at the top level here are a couple of areas where we feel like the permit falls short as currently drafted.

One is about the enforcement mechanism. The current version specifies that the plan has to have schedules that will become effective and enforceable, but doesn't really say how. So we'd like to see the state incorporate these plans and schedules into the permit itself so Arlington can be held legally accountable for meeting its plan.

We're also frankly a little disappointed about the retrofit requirements. The current draft only has seven retrofit projects. But given that Arlington stated that its pollution reduction requirements will be achieved primarily, and I quote, "primarily through watershed retrofits and stream restoration projects" we find the current requirement too small and we feel like it needs to be expanded significantly to make a meaningful difference.

A third concern is delayed implementation. Under the timelines as we understand being currently proposed, Arlington's requirement to meet the 2025 Bay clean up would go out until at least 2028 if not later again depending on when the permit kicks in. And, time and again the Bay cleanup deadlines have always been extended and we think at this point, moving the finish line further out is the wrong policy, I mean now is the time to stick with the 2025 deadlines that have been put in place.

So, the good news is that other MS4 permits in the region, including the one in the District of Columbia actually have some really strong language that could be looked at and hopefully used to address or modify some of these concerns that we've raised.

But with respect in closing, to stormwater issues, our 1,500 river champions in the community want a stronger stormwater permit because it's going to mean less flooding of commercial and residential properties when it rains. A stronger permit will improve the quality of life in residential neighborhoods by increasing the amount of green space. A stronger permit, finally, is going to result in less water volume and velocity during rain storms, putting a stop to the continued degradation to a number of great local streams here in Arlington like Four Mile Run and Donaldson Run.

So we appreciate the opportunity to weigh in with a few thoughts. We know it's off to a good start but we'd like to see some significant improvements. We look forward to working with all of you and the County and the EPA on making those improvements in the coming weeks.

Thank you.

*Robin Broder, Potomac Riverkeepers*

I'm Robin Broder. I'm the Vice President of Potomac Riverkeeper. We're a non-profit membership organization here in the Potomac region. We work to enforce clean water laws.

We are also planning to submit more extensive comments next week so my comments today will be brief.

I live in Arlington and have lived here since 1991. My husband and I have raised our two daughters here. I've spent many, many hours volunteering in the class room, on field trips and as a science fair judge. I know that dozens and dozens of our Arlington kids use our local streams as a place to learn about our water systems and our water resources. In fact my daughter, my

older daughter, sampled Four Mile run one year as a science fair project. She sampled for optimal brighteners which aren't supposed to be in the water, but she did find them unfortunately.

So, I'm asked a lot about whether or not it's safe for our kids to be in the streams. I would like to say yes, but right now I don't feel like I can. But I feel that I know with a strong MS4 permit that's enforceable that sometime in the near future I could say yes, that our kids could be okay to be in the streams.

So today I'd just like to highlight a few of the changes that I think perhaps the draft permit needs to protect the water quality of our local streams and the Potomac River.

The local action plans that are outlined in the permit need a quantitative way to ensure they meet pollution reduction goals. As Hedrick also mentioned they need a requirement that the actual plans be implemented, and a process for public input for the action plans as well as for the MS4 program.

Right now there is an automatic approval process for the plans at 60 days, sort of a rubber stamping of the plans. Instead we believe that the Department should affirmatively respond to the plans in that timeframe.

In addition the permit must include requirements for representative monitoring of all the relevant pollutants including physical and chemical monitoring and not just bacteria.

As Vice President of Potomac Riverkeeper, I know the importance of a strong and enforceable permit to protect our local waterways. As a Mom and local resident, I know our urban streams give our kids places to explore and learn and thrive and play. We all have a responsibility to keep our kids on our urban streets health. I know that we're on the right path and with certain changes in the permit we can get there.

Thank you for your time today.

*Peggy Sanner, Chesapeake Bay Foundation*

Good morning. I'm Peggy Sanner. I am the Virginia senior attorney for the Chesapeake Bay Foundation so you are hearing from three similar perspectives. Thank you for the opportunity to speak today. Thank you for the work that you have undertaken here at the County level, at DCR and also at the EPA. It's an incredibly hard piece of work have in front of you. We think it's a critical step in the restoration of the Bay and its tributary streams.

We all know that the Bay TMDL calls for a restored Bay, or at least the steps to get us there, be implemented by 2025, through reductions in nutrients and sediments. The WIP, Virginia's implementation plan, committing to achieve its goal, in part with strong reissued MS4 permits including the eleven Phase I permits of which Arlington is the first.

This reflects, we think Arlington's leadership role in water quality matters. If Arlington can't do it, no one else in the state can do it. So, this one has to be right.

This permit I think, undisputed, has many strong elements. We have been part of the process from the beginning, reviewing draft, bugging DCR for another draft, trying to get their attention for still other issues.

But it's a very strong draft in our view, but I focus particularly on the Chesapeake Bay special condition which includes a call for an action plan to be developed by the County within two years. We don't agree with all of it. We will detail some of our objections in further comments, but it's a strong provision that requires the County to come up with a plan to meet the reduction within two years.

The two year issue is of some concern because no one, at least I don't know, what will be in that plan and we won't know that for two years. And as that is the heart of the heart of the Bay restoration WIP program there needs to be a lot of transparency and ability for all of us to weigh in.

Fortunately, this draft includes substantial public comment opportunities with respect to that action plan. We think as some have spoken earlier today, it also needs to have a requirement that the Department or the Board specifically approve, modify, disapprove that action plan. The way the program is stated now in our view suggests that the County will do its work by submitting an approvable plan. Does that give the County the right to say what it is and what it isn't? And they could just come into effect by the passage of time. I think that's a mistake given the importance of the plan.

We would urge DCR and the County to provide for specific requirements that the County and the Board approve it.

We also consider and there are a number of other areas that I'll mention that could or should be improved. With respect for the schedule for implementation that's part of the action plan. We think there is some ambiguity in the language. The part that says the schedule shall be enforceable, yet the schedule itself is not included in the list of things that are said to be in the permit, the minimum requirement. So, I don't think there was any intent for unclarity, but I think there is potential for unclarity there which the County and DCR in my view should rectify.

We agreed that the biological monitoring, the bacteriological monitoring, the floatable monitoring creates a strong foundation. There should also be and we think there needs to be, an important representative, chemical monitoring. This is to make sure that the County can do what it needs to do, what it is committed to doing and that is to do an adaptive management program. If something is working, great. If it's not working, let's fix it. The chemical monitoring piece on a representative basis would not fall into the monitoring of the outfalls. That's an important piece that should be added to the permit.

We also think that there are a variety of benchmarks, numerical goals that should be accelerated. For example, linear feet of the sewage system being inspected, outfalls, catch basins being inspected. Lane miles that need to be swept on a more regular basis.

This is important for a lot reasons. One is so that people who live in the County and use these roads on a daily basis can actually see what the County is doing with its tax dollars, but I don't live here so I won't emphasize that point. What I will say is those are the benchmarks which will show how the County is getting to where it's committed to being. So, an acceleration of many of those numerical goals which we will specify in our written comments.

That's all I'll say today. Again I thank you all for the work you've done. It's an incredible project and I think the state is off to a really good start in Arlington.

*Robert Atkins, Arlington*

Good morning, my name is Robert Atkins. I'm a private citizen in here Arlington. I just heard about this meeting last night so I haven't had a chance to prepare remarks, but will be sending in something in writing later.

I've been following the MS4 system for a number of years and have a couple of comments.

Number one, for the past two years I've been representing my neighborhood association on the Ballston Beaver Pond retrofit project. I'd like to commend staff here on the work on that. They've actually a very good job of outreach and a good technical expertise in this project is a good start on retrofit here in Arlington and should be a model for both Arlington and the entire region. They are to be commended. For your purposes, this is as intense monitoring as in some other areas.

In general what I've seen about the new permit is good. I do have three areas of concern.

Number one: K9 companion areas, otherwise known as dog parks. A prime pollution source here and throughout urban areas of the state. There needs to be more specific language as to how you monitor the actual pollution from these sources, and secondly these areas should be used as an educational outreach to dog owners so they don't pollute otherwise. Just as you have trees given out to the private sector for education efforts, use these companion areas as an education source.

Secondly here in Arlington there is a new urban agriculture political correctness. There is a possibility of starting many new chicken coops here. Prime pollution in an urban area. Nitrogen pollution. You need to have the County require if they do go to urban agriculture for hens in the backyard that these be treated as single point sources for pollution and avoid the problems up front. Don't have a deterioration based on this new development.

The same thing would apply to the pigmy goats and everything else that they want to do here. If you're changing the nature of the pollution sources that needs to be covered by this new permit.



A lot can be done in five years. Please try and do so.

The third thing has to do with the actual County owned property. Right now there are major pressures upon the use of this property. Athletic fields that were grass are now being into Astroturf. Parking lots are being built over park land. Buildings are being built. There is a major loss going on of permeable soils that needs to be monitored as part of the five year plan. Every year I get a report from the County. How many acres have been lost of the County property to permeable surfaces from permeable soil? This changes how the rest of it has to be monitored. It changes the runoff.

In addition to the actual monitoring of this I'd suggest you have a requirement if you could legally do so to say there would be no net loss of square feet of impermeable surface on County property. Set a standard that the County will not go backward. We're an urbanizing area. These are resources that need to be protected.

There are many things technically that can be done to make this a better process. Please try and put them in up front so that we don't have to keep coming back every five years and doing a lot of changes.

It's an improved process, but let make it even better.

*Greg Emmanuel, Arlington County*

I'm Greg Emmanuel, the Director of the Department of Environmental Services. Thank you for this opportunity to speak today.

I'll just provide a few comments on Arlington County's draft MS4 permit.

Arlington County is very proud of its demonstrated commitment to environmental improvement. It takes all of its environmental requirements and obligations very seriously as part of what we provided to our citizens.

In addition to the County's strong MS4 program our commitment to progressive environmental leadership has been established through decades in numerous actions and investments over many years.

These range from our award winning smart growth policies and transportation planning and region-leading sustainability efforts to our recent more than half million dollar investment to upgrade our wastewater plant. That is now performing at state of the art performance levels. The total nitrogen that you're probably aware of, that's going to a tremendous benefit to Four Mile Run, the Potomac River and the Chesapeake Bay for years to come. We take our environmental commitments very seriously, and as the Department head I'm kind of the chief environmental officer and I take it very seriously.

Our community has substantially increased its investment to stormwater to comply with this permit and that is also noteworthy. We are a community that looks ahead. Our County board adopted a dedicated stormwater tax in 2009. As a result, Arlington's investment in stormwater management has more than tripled from the funding levels from when the prior permit was issued.

So in advance of the draft permit we have undertaken numbers watershed restoration programs and retrofit projects. That includes several stream restoration projects, multiple stormwater retrofit projects, stream and retrofit assessments to prioritize future projects in our capital improvement plan, which include the launching of a homeowner retrofit incentive program. Increased water quality monitoring efforts and members of the community helped us with that. There have been expanded pollution prevention and pollution response programs. More recently an expanded street sweeping where we have handle things on a more regular schedule. We had a lot of outreach to the community explaining the benefits of doing so for the Bay.

So, the draft permit represents local efforts and expenditures. I don't want to overstate that. The amount of new work that's going to be required for our staff cannot be overstated.

Overall we are very supportive and prepared to accept and to move ahead with the draft permit. However, to clarify our support, we have a couple of conditions. You will get these all in writing.

But simply put those conditions are that DCR address the comments we give you in writing. We have several suggested revisions to the draft permit. For the sake of clarity we will put those in writing.

We would add that DCR not add further requirements without the County's consent and discussion. Because, given the resources we have, although we've dedicated a tremendous amount to it, they are of course limited.

So, in closing, the draft permit represents a major additional five year effort for us as part of our longer term program to improve local watersheds and downstream waters like the Bay that so many in our community care so much about.

We really appreciate working with you. We appreciate your efforts to date. And we look forward to continued work with DCR in the months and years to come. This is a long journey for all of us.

*Suzanne Dee, George Mason University*

My name is Suzanne Dee and I'm a graduate student at George Mason University taking a climate change adaptation course right now. I'd like to put a plug in for considering sea level rise especially for areas that are along rivers in Arlington County. In the next century we're looking to a foot to a near sea level rise and already areas like Alexandria are affected by sea

level rise and experience flooding from high tides. So that's something to consider as you go forward.

I'd also like to say something or second the impervious surface comment that it's an excellent option in terms of setting a target for not increasing impervious surfaces. Impervious surfaces are the number one cause of a lot of the damage that stormwater causes across the country and that was an excellent recommendation.

Thank you.

**Ms. Vucci:** That completes the list of those individuals who signed up to speak. Are there other individuals who would wish to comment or leave written remarks?

**Closing:**

**Ms. Vucci:** A handout is provided on the table outlining the public comment submittal procedures.

Anyone wishing to submit comments may do so by mail to the Regulatory Coordinator at: Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219. Comments may also be emailed to the Regulatory Coordinator at: [regcord@dcr.virginia.gov](mailto:regcord@dcr.virginia.gov). Comments may also be faxed to the Regulatory Coordinator at: (804) 786-6141. All written comments must include the name and address of the commenter (e-mail addresses would also be appreciated). In order to be considered, comments must be received by March 29, 2013.

With that announcement, I would like to thank each of you for attending this meeting and providing us with your views and comments. This meeting is now officially closed. Staff will be available afterwards to take any individual questions you may have.

**DCR Staff Present**

Michelle Vucci  
Virginia Snead  
Michael R. Fletcher

**Others Present**

Tara Ajello, CH2M Hill  
Robert D. Anderson, Arlington  
Robert Atkins, Arlington  
Jaime Bauer, DEQ  
Hedrick Belin, Potomac Conservancy  
Kate Bennett, Fairfax County  
Linda Blankenship, Michael Baker, Jr., Inc.

Robin Broder, Potomac Riverkeeper  
Turgay Dabak, Michael Baker, Jr., Inc.  
Suzanne Dee, George Mason University  
Greg Emanuel, Arlington DEJ  
Normand Goulet, NRVC  
Diana Handy, Arlington County  
Tim Hare, CH2M Hill  
Christin Jolicocum, Ail Company  
Doug Moseley, GKY  
Ashley Parks, EEE Consulting  
Fernando Pasquel, ARCADIS  
Peggy Sanner, Chesapeake Bay Foundation  
George Kraloved, AAAS/FCPS  
Chris Pomeroy, Arlington County  
Kishia Powell, RK&K