



# Maryland

## Department of the Environment

Larry Hogan, Governor  
Boyd K. Rutherford, Lt. Governor

Ben Crumbles, Secretary  
Horacio Tablada, Deputy Secretary

**JUN 25 2019**

Mr. Adam Ortiz, Director  
Montgomery County Department of Environmental Protection  
255 Rockville Pike, Suite 120  
Rockville, MD 20850

Dear Mr. Ortiz:

This letter acknowledges the Maryland Department of the Environment's (Department) receipt, on February 15, 2019, of Montgomery County's 2018 Financial Assurance Plan (FAP) as required by the Annotated Code of Maryland.

Chapter 124 of the Acts of the General Assembly of 2015 requires the Department to make a determination regarding the sufficiency of funding in each FAP filed with the Department. The first FAP, filed in 2016 by the County, was found to demonstrate sufficient funding for the 2-year period immediately following the filing date of the FAP. The second and subsequent FAP is sufficient if it demonstrates that the County has dedicated revenues, funds, or sources of funds to meet, for the 2-year period immediately following the filing date of the FAP, 100% of the projected costs of compliance with the impervious surface restoration plan (ISRP) requirements of the County's National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Separate Storm Sewer System (MS4) permit.

After reviewing Montgomery County's 2018 FAP, the Department has determined that the County has demonstrated that it has sufficient funding in its FAP. The Department has provided more detailed comments in an attachment for the County's information and use. The County's next FAP will be due in coordination with its 2020 MS4 Annual Report.

The Department recognizes the substantial effort required in developing these FAPs, and looks forward to working with Montgomery County on this very important environmental program for improving local water resources and Chesapeake Bay. If you have any questions regarding this review, please contact me at 410-537-3567 or Jennifer M. Smith at 410-537-3561, or by email at [jenniferm.smith@maryland.gov](mailto:jenniferm.smith@maryland.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "D. Lee Currey".

D. Lee Currey  
Director, Water and Science Administration

cc: Jennifer M. Smith, P.E., Program Manager, Sediment, Stormwater and Dam Safety Program  
Amy Stevens, Section Chief, Watershed Planning and Monitoring

Attachment

**Maryland Department of the Environment's (MDE) Review of  
Montgomery County's 2018 Financial Assurance Plan (FAP)**

<b>FAP Condition</b>	<b>MDE Assessment and Recommendations</b>
<p>Demonstration of Public Participation and Sufficient Funding</p>	<ul style="list-style-type: none"> <li>• Montgomery County held a public hearing on its Financial Assurance Plan (FAP) on January 29, 2019, and the FAP was approved by the County Council on February 5, 2019. A signed certification by the County Executive was provided on March 1, 2019.</li> <li>• The County submitted its FAP to the Maryland Department of the Environment (MDE) on February 15, 2019 satisfying State reporting requirements.</li> <li>• The County's FAP demonstrates sufficient funding for 100% of the projected Impervious Surface Restoration Plan (ISRP) costs for the fiscal year (FY) 2019-FY2020 period (\$23,530,014 in revenue versus \$23,471,563 in cost), meeting the requirement for funding of 100% of the ISRP.</li> </ul>
<p>Actions to Meet Permit Requirements ("All Actions" worksheet)</p>	<ul style="list-style-type: none"> <li>• Montgomery County included with its FAP an executive summary that indicated the actions required to meet permit conditions and the ISRP.</li> <li>• The total restored impervious acres from the "Spec Actions" worksheet correspond correctly with the restored impervious acres indicated on the "All Actions" worksheet.</li> <li>• The County is reporting a total of 3,781 acres restored through FY2019, or 100.1% of its ISRP.</li> <li>• The two-year and five-year sum totals have also been calculated correctly.</li> <li>• The County has documented general categories of best management practices (BMPs) to meet the 20% ISRP requirement.</li> <li>• The County grouped two projects together and reported them as structural type "GABION". These grouped projects were also reported in Appendix J of the County's FY2018 Municipal Separate Storm Sewer System (MS4) Annual Report, under "Outfall Stabilization".</li> </ul>
<p>Annual and Projected Costs ("All Actions" and "ISRP Costs" worksheet)</p>	<ul style="list-style-type: none"> <li>• Montgomery County reported capital and operating costs for the current and projected fiscal years as required.</li> <li>• Worksheet entries and formulas have been entered correctly.</li> <li>• About 479 acres are scheduled to be completed through FY2020 at a cost of \$18,056,784; this averages out to \$37,664 per acre. The County's average cost per acre for the permit term was \$29,928.</li> <li>• Under the Specific Actions worksheet, the County reported its total expenditures for FY2010-FY2019 to be \$112,408,436 (Total Complete To Date) and the total impervious acres restored to be 3,781 acres. The amount of acreage reported is consistent with what is reported in the "All Actions" worksheet; however, the cost is not (a total cost of \$113,180,143 is reported in the "All Actions" table under "Total Permit Term").</li> </ul>



**Maryland Department of the Environment's (MDE) Review of  
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FAP Condition	MDE Assessment and Recommendations
Annual and Projected Revenues ("ISRP Revenue" worksheet)	<ul style="list-style-type: none"> <li>• Revenues for the ISRP have been reported for FY2018-FY2023.</li> <li>• Entries and formulas have been entered correctly.</li> <li>• Montgomery County's FAP shows a revenue drop from a high of \$27,629,934 in FY2018, decreasing to \$6,921,907 in FY2020 and remaining within the \$6.9 million range through FY2023.</li> <li>• The County projects revenues for the next two fiscal years to be \$23,530,014 and the total for the permit term and five-year projections to be \$191,459,671, a decrease from the \$381,605,657 projected in the 2016 FAP.</li> <li>• The costs listed in the "ISRP Revenue" worksheet correspond directly with the projected costs in the "ISRP Costs" worksheet.</li> <li>• The reported two-year ISRP revenue equals 100% of the funds needed toward the two-year ISRP costs and the total costs for the ISRP permit requirement.</li> </ul>
Funding Sources ("Fund Sources" worksheet)	<ul style="list-style-type: none"> <li>• The County did not indicate the percentage of funds directed toward the ISRP requirement. This data was also omitted from the County's last submittal in 2016. These data are important for assessing the County's ability to pay for its ISRP and shall be reported in the County's next FAP submittal.</li> <li>• All other formulas in this worksheet appear to be correct.</li> <li>• Sources of funds for the next two years include:               <ul style="list-style-type: none"> <li>○ Water Quality Protection Charge = \$74.8M</li> <li>○ Miscellaneous Income = \$21.2M</li> <li>○ Miscellaneous Fees and Taxes = \$5.3M</li> <li>○ Water Quality Protection Revenue Bonds = \$3.6M</li> <li>○ State Revolving Loan Fund = \$2.3M</li> <li>○ State Funded Grants = \$0.5M</li> <li>○ Total Funding Sources = \$107.7M</li> </ul> </li> <li>• For the next two fiscal years, the County projected that the majority of the annual funds for meeting permit requirements would be from its water quality protection charge (69%) and from the solid waste fund (11%).</li> </ul>
Specific Actions and Expenditures from Previous Fiscal Years ("Spec Actions" worksheet)	<ul style="list-style-type: none"> <li>• The reported actions and expenditures by Montgomery County correctly reflect the completed restoration activities.</li> <li>• The formulas calculating the total costs have been entered correctly.</li> <li>• The total restored impervious acres from the Specific Actions worksheet correspond with the total amount indicated in the "All Actions" worksheet.</li> <li>• The County included 8 restoration BMPs completed between the expiration date of the previous permit term (July 2006) and the beginning of the current permit term (February 2010), totaling 39 acres and costing \$1,028,349 (five projects have no associated cost reported). The County may take these credits.</li> <li>• The County identified two projects as structural type "GABION". One of these projects is described as "stream restoration through gabion walls",</li> </ul>

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<b>FAP Condition</b>	<b>MDE Assessment and Recommendations</b>
<p>Specific Actions and Expenditures from Previous Fiscal Years (cont.)</p>	<p>while the other is described as “stream bank stabilization through gabion walls”. Both of these projects were also reported in Appendix J of the County’s FY2018 Municipal Separate Storm Sewer System (MS4) Annual Report, under “Outfall Stabilization”.</p> <ul style="list-style-type: none"> <li>• The County reported “Facility Planning” under Capital Projects, categorized by year (from 2010 to 2018). Although these entries do not have associated impervious acreage, they do have a reported cost (\$7,149,301 total).</li> <li>• Under “Other”, the County reported 933 total acres of “New BMPs Treating Existing Impervious Area”, under the code “REDE” (Redevelopment). Further clarification of this term, including a breakdown of individual BMPs in this category, was provided by the County as Appendix J in the County’s MS4 Annual Report.</li> <li>• The County reported a handful of dry extended detention ponds (BMP code “XDED”) with a total of 482 impervious acres, which it counted toward its total impervious surface restoration requirement. After verification, it has been confirmed that these dry ponds either have a water quality treatment feature or are part of a larger stormwater management system in one of the Special Protection Areas. This policy is outlined in <i>Montgomery County’s 2010-2015 MS4 Watershed Restoration Achievements</i> (2015), which MDE approved in August 2016.</li> </ul>
<p>Future FAP Reporting</p>	<ul style="list-style-type: none"> <li>• The County’s next FAP will be due in coordination with its FY2020 Annual Report.</li> </ul>