



Maryland

Department of the Environment

Larry Hogan, Governor
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Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

JUN -6 2019

Mr. David V. Lykens, Acting Director
Baltimore County Government
Department of Environmental Protection and Sustainability
11 West Chesapeake Avenue, Room 400
Towson, MD 21204

Dear Mr. Lykens:

This letter acknowledges the Maryland Department of the Environment's (the Department) receipt, on December 21, 2018, of Baltimore County's 2018 Financial Assurance Plan (FAP) and 2018 Watershed Protection and Restoration Program (WPRP) Annual Report 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 Baltimore 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 WPRP Annual Report will be due in coordination with its next MS4 Annual Report, and its FAP will be due in coordination with the 2020 MS4 Annual Report.

The Department recognizes the substantial effort required in developing these FAPs and WPRP Annual Reports, and looks forward to working with Baltimore 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 jenniferm.smith@maryland.gov.

Sincerely,

D. Lee Currey
Director, Water and Science Administration

cc: Jennifer M. Smith, P.E., Program Manager, Sediment, Stormwater and Dam Safety Program

Attachment

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

Plan Condition	MDE Assessment and Recommendations
<p>Demonstration of Sufficient Funding</p>	<ul style="list-style-type: none"> • MDE received the County’s FAP on December 27, 2018 (the cover letter was dated December 21, 2018). • The County provided a certification that indicates the following information: <ul style="list-style-type: none"> ○ A public hearing was held on the FAP on December 11, 2018. ○ The submission was certified (signed) by the County Executive on December 17, 2018. • The County’s permit expired on December 22, 2018 (i.e., the middle of FY2019). The FAP demonstrates sufficient funding for the projected impervious surface restoration plan (ISRP) costs for FY2019-FY2020 (revenues projected at \$50,662,449 with a projected cost of \$50,662,449 over the same period).
<p>Actions to Meet Permit Requirements (“All Actions” worksheet)</p>	<ul style="list-style-type: none"> • Baltimore County included an executive summary with its FAP. This summary indicates the actions required to meet permit conditions as required by the Annotated Code of Maryland, Environment Article § 4-202.1(j)(1)(i)1. • Projected BMPs have been reported in the “All Actions” worksheet. • Most of the cell formulas appear to be correct; for Operational Programs, each alternative BMP should be averaged separately rather than the combined total being averaged. (Due to the values for each year being identical, the end result is the same.) • Sum totals for two-years, five-years (permit term), and permit term plus projected years have been correctly calculated. • According to the proposed actions detailed in the “All Actions” worksheet, assuming all projects planned for FY2019 proceed to completion, the County estimates restoration of approximately 4,860 acres, or 80.5% of the County’s impervious surface restoration program (ISRP) requirement during the permit term (FY2014-FY2019). If assuming all projects planned up to FY2021 proceed to completion, the County estimates that it would meet the ISRP requirement in FY2021. The FAP also demonstrates that there are sufficient funds to cover 100% of the cost for these projects. • MDE notes that the County has several stream restoration projects (totaling 1,249 acres) with a projected implementation year of FY2019. MDE acknowledges that the County has enhanced the specificity of the implementation phase of several of these projects, noting that 1,044 acres are in the “design” phase and 205 acres are under construction, and that this was the case at the time of FAP preparation. Still, MDE notes that the amount of stream restoration projects scheduled for implementation in FY2019 considerably exceeds the rate of completed stream restoration projects in previous years of this permit term. For example, while the County projected to complete 1,249 acres of stream restoration in FY2019, it reports that 256 acres were implemented in FY2018, and has averaged approximately 99 acres per year for the permit term.

MDE’s Review of Baltimore County’s 2018 FAP

Plan Condition	MDE Assessment and Recommendations
<p>Annual and Projected Costs</p> <p>(“All Actions” and “ISRP Cost” worksheet)</p>	<ul style="list-style-type: none"> • The County reported capital and operating costs for the past, current, and projected fiscal years as required. • As of the end of FY2018, the County reports a restoration total of approximately 3,504 acres at a cost of \$19,250 per acre within the current permit term, an increase over the \$9,467 per acre reported in 2016. • Over the next two years, the County projects a restoration of 2,329 acres at a cost of \$19,951 per acre, a difference of <1%. • In the “All Actions” worksheet, the County indicates that the cost for the next two years is \$46.5 million; conversely, the “ISRP Cost” worksheet indicates a two-year cost of \$52.5 million. The County’s response to comments explained that this discrepancy is due to “All Actions” reporting cost for all implemented BMPs during that period versus “ISRP Cost” documenting cost for the years in which they are incurred. • The County listed several BMPs, such as outfall stabilization, forest buffers and tree planting, with a \$0 associated cost; it has been noted in the comments that implementation was either done by private sector volunteers or its cost was already factored into another project (e.g., stream restoration). Other practices being implemented for a \$0 associated cost included septic pumping, tree and rain barrel sales or redevelopment. The County should continue to provide outreach and promote these volunteer efforts and BMPs for additional restoration credit and cost savings.
<p>Annual and Projected Revenues</p> <p>(“ISRP Revenue” worksheet)</p>	<ul style="list-style-type: none"> • Baltimore County’s current permit expired on December 23, 2018 (i.e., the middle of FY2019). Accordingly, half of FY2019 and all of FY2020 are projections beyond the permit term. • Revenues for the ISRP have been reported for FY2018-FY2023 as required by Annotated Code of Maryland, Environment Article § 4-202.1(j)(1)(i)3. • Entries and formulas have been entered correctly. • The reported two-year (i.e., FY2019 and FY2020) revenue is \$50.7 million. • The County’s reported annual sources of funds matches the percentage of funds directed toward the ISRP. The reported revenue for the next two fiscal years meets 100% of the projected cost, demonstrating that the County has sufficient funding to meet its impervious surface restoration requirement.
<p>Funding Sources</p> <p>(“Fund Sources” worksheet)</p>	<ul style="list-style-type: none"> • The County reported sources of funds for previous years of the permit term, fiscal year 2018, and projected fiscal years 2019-2023. • The required fields in the sources of funds worksheet are complete. • Formulae have been entered and calculated correctly. • Sources of funds for the next two years include: <ul style="list-style-type: none"> ○ Bonds = \$25.5M ○ Carryover from previous fiscal years = \$19.3M ○ State and Federal Grants = \$2.5M ○ General Fund = \$1.9M ○ Stormwater Remediation Fees = \$1.5M ○ Total Funding Sources = \$50.7M

MDE’s Review of Baltimore County’s 2018 FAP

Plan Condition	MDE Assessment and Recommendations
<p>Funding Sources (cont.)</p>	<ul style="list-style-type: none"> The largest sources of two-year funds were \$20 million in revenue (utility bonds) and \$5.5 million in general obligation bonds. Another large source was \$19.3 million in “[c]arry over from previous fiscal years”. The sum of the County’s funding sources for the current fiscal year and the projected years exceed the County’s costs, demonstrating sufficient funding for the next 5 years.
<p>Specific Actions and Expenditures from Previous Fiscal Years (“Spec Actions” worksheet)</p>	<ul style="list-style-type: none"> The County reported completed BMPs in the Specific Actions (“Spec Actions”) worksheet. The formulas for calculating the total costs have been entered correctly. The County reported costs of BMPs for completed projects in sufficient detail. One of the BMPs listed under “Capital Projects”, a shoreline management project, has a built date in 1991, outside of the current permit term. The 19.2 acres listed for this project should not be counted towards the ISRP total. Several BMPs listed have a built date prior to FY2014, although these BMPs were still constructed after the conclusion of the previous permit term (and thus are permitted to be counted towards the ISRP). It is unclear whether the County is counting all restoration completed between FY2011 and FY2013, specifically since the amount of restoration being reported is 3,504 acres, or 58% of the ISRP total. In the Capital Projects category, the County included 10 instances of illicit discharge detection and elimination (IDDE) totaling 504 acres, which is not an approved alternative BMP for impervious surface restoration credit. Excluding these acres (in addition to the 19.2 acres for the 1991 shoreline management project) yields a total of 2,980 acres, or 49% of the ISRP total. The County calculated a total of approximately 3,504 acres of completed and projected ISRP restoration; including BMPs projected for completion in FY2019, the total becomes 4,860 acres (as reported in the “All Actions” table). This number differs from the amount calculated in Table 10-52 of the County’s annual report, which totals 5,610 acres when FY2011-FY2018 restoration efforts and the annual BMP average are added. MDE requests that the County clarify this discrepancy. Excluding the 19 acres of ISRP treatment from the 1991 shoreline management project and the 504 acres from IDDE yields a total permit term ISRP treatment of 4,336 acres. This meets 72% of the ISRP requirement. If including the planned projects for FY2020, the total ISRP treatment up to FY2020 would be 4,837 acres or 80% of the requirement.