Maryland
Department of
the Environment

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

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

AUG 23 2019

Shannon Moore, Manager
Sustainability & Environmental Resources
Community Development Division
Frederick County
30 North Market Street
Frederick, Maryland 21701

Dear Ms. Moore:

The Maryland Department of the Environment (Department) conducted a review of Frederick County's 2018 Financial Assurance Plan (FAP), received on December 28, 2018, and determined that there was insufficient data to complete its review. The Department's June 6, 2019 correspondence to you described the deficiencies and requested that the County submit an updated FAP demonstrating sufficient implementation and funding for the impervious surface restoration plan (ISRP). The County submitted a revised 2018 FAP on June 28, 2019. Following this submission, the Department and County discussed outstanding issues during an August 13, 2019 conference call. An updated 2018 FAP was submitted by the County on August 15, 2019. The Department reviewed this updated submission and offers the following:

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. The first plan, filed in 2016, demonstrated sufficient funding for the 2-year period immediately following its filing date. The second plan is sufficient if it demonstrates that the County has dedicated revenues, funds, or sources of funds for the 2-year period immediately following the filing date to meet 100% of the projected cost to comply with the ISRP requirements of the County's National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Separate Storm Sewer System (MS4) permit.

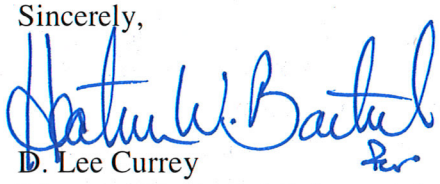
The Department has determined that the County has demonstrated sufficient funding as described in its FAP. This determination is contingent upon the approval of the County's impervious area analysis by the Department and the official approval of the FAP by the Frederick County Council. The Department requests that the County notify the Department when a public hearing has been scheduled to approve this updated FAP. Below are several key findings based on the Department's review:

- The County's impervious area analysis indicated that there are 6,350 impervious acres in the County with little or no stormwater management. The County's permit requires that 20% of that area, or 1,270 impervious acres, be restored during the course of its permit term. The Department's review of the impervious area analysis is pending at this time.
- The updated FAP listed the County's most current timelines for project implementation.

- The County proposed treating 65 acres of impervious area (approximately 5% of its ISRP requirement) by acquiring credits temporarily through the Maryland Water Quality Trading Program. The FAP indicated that the credits would be acquired at no cost. The Department supports nutrient trading; however, the current permit must be modified accordingly. A permit modification has been initiated and a public hearing was held on July 29, 2019.
- The County projects to complete approximately 1,270 acres of restoration (or 100% of the proposed 1,270 acre ISRP requirement) by the end of the permit term.

The County's next Watershed Protection and Restoration Program (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 Frederick 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