ALICE FERGUSON FOUNDATION, INC.

ENVIRONMENTAL EDUCATION ON THE POTOMAC

June 4, 2010

Mr. Garrison D. Miller
United States Environmental Protection Agency
Office of NPDES Permits and Enforcement (3WP41)
1650 Arch St
Philadelphia, PA, 19103-2029

Re: District of Columbia- Draft NPDES Permit No. DC0000221

To Mr. Garrison Miller:

We appreciate the opportunity to review and comment on the Draft NPDES Permit No. DC0000221 for the municipal separate storm sewer system owned and operated by the District of Columbia.

The Alice Ferguson Foundation's mission is to provide experiences that encourage connections between people, the natural environmental, farming, and the cultural heritage of the Potomac River Watershed, which lead to personal environmental responsibility. As a part of our work, we coordinate the Trash Free Potomac Watershed Initiative (TFPWI) a program which challenges regional stakeholders to work collaboratively to reduce trash and increase recycling, education, and awareness of trash issues in the Watershed.

In March 2005, the Alice Ferguson Foundation brought attention to the trash-related problems in the Potomac River and its tributaries through the *Potomac Watershed Trash Treaty*, creating a forum for recognition of the problem, as well as a commitment to work towards solutions. The *Potomac Watershed Trash Treaty* had six founding signers, and has since gained a total of 140 signers with representatives from town, county, state and federal governments within the Potomac Watershed, including the District of Columbia.

This MS4 permit is an improvement over past efforts, however, there is still opportunity for strengthening the effectiveness of this permit. Our two main concerns are: 1) The permit relies heavily on the incomplete and unknown Anacostia Trash TMDL Implementation Plan. and 2) There is an insufficient definition of public participation for implementation plan development.

It is encouraging to see in *Sec. 4.3.5,* that the Anacostia Trash TMDL Implementation Plan will be applied to the other watersheds in the MS4 permit area. However, since this plan is still in development, it is difficult to have assurance that it will be sufficient to not only reach the WLA on the Anacostia, but also be enforceable when non-compliance occurs, either within the Anacostia watershed or the other watersheds. Implementation Plan development must be participatory and collaborative throughout the process, not just during a public comment period.

Sec. 8.1, which describes all the elements that should be included in the implementation plan does include mention of the need for public involvement actions. We are pleased to see the statement "including the

public in such discussions no later than six months from the date of the TMDL WLA approval". However, we don't feel that this is a sufficient description of what the public discussion will be. Possibilities include collaborative working groups, public comment periods, public meetings, or another format. **We suggest defining these public discussions in *Sec. 8.1*, with more detail and timelines.** In particular, **We request that a collaborative working group be a requirement of the Anacostia Trash TMDL Implementation plan development and this be included in *Sec. 8.1.2*. We also recommend referring to the Potomac Watershed Trash Summit and Potomac Watershed Trash Treaty in this section,** as these will be mechanisms for supporting this collaborative working group**.** Suggested language could include:

> In March 2005, the Alice Ferguson Foundation brought attention to the trash-related problems in the Potomac River and its tributaries through the *Potomac Watershed Trash Treaty*, creating a forum for recognition of the problem, as well as a commitment to work towards solutions. The *Potomac Watershed Trash Treaty* had six founding signers, and has since gained a total of 140 signers with representatives from town, county, state and federal governments within the Potomac Watershed, including the District of Columbia.
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> The *Potomac Watershed Trash Treaty* commits the signers to achieving a "Trash Free Potomac by 2013" by supporting and implementing regional strategies aimed at reducing trash and increasing recycling; increasing education and awareness of the trash issue throughout the Potomac Watershed; and reconvening annually to discuss and evaluate measures and actions addressing trash reduction. The Alice Ferguson Foundation also convenes an Annual *Potomac Watershed Trash Summit* at which *Potomac Watershed Trash Treaty* signers and other stakeholders are able to collaborate on strategies for eliminating trash, as well as develop year-round problem-solving partnerships. The *Potomac Watershed Trash Treaty* and the *Potomac Watershed Trash Summit* demonstrate the commitment of political leaders and stakeholders to this issue and a willingness to collaborate on implementation of effective trash elimination strategies.

In addition to improving public participation with the development of the Anacostia Trash TMDL Implementation Plan, other areas of this permit that could be strengthened include:

1) We appreciate the detail given for a street sweeping schedule in *Sec. 4.3.6*, including the descriptions of street types. Street sweeping is an important tool in removing trash and debris from the street and keeping it out of the river. **However, we recommend that there be mention of the geographical distribution of this street sweeping, particularly whether or not it will occur over the entire permit region or in specific areas.** This is necessary in order to ensure compliance.

2) We are pleased to see the inclusion of a management plan for illegal dumping and improper disposal of refuse in *Sec. 4.7*. These programs are essential in order to curb the introduction of more trash into the watershed, however, without more details on what the programs will entail, there will be little way to recognize non-compliance. **We recommend that at the very least, it be stated explicitly that programs on litter reduction, hazardous waste collection and education, illegal dumping enforcement, and other activities must be included in the Trash TMDL Implementation Plan.**

3) *Sec. 4.9.1* includes hazard waste, BMPs for homeowners, and other more general stormwater BMPs, but there is no specific mention to litter reduction education and illegal dumping education. Education and outreach is expected to be a part of the Trash TMDL Implementation and it was included in Section 6.5 of the draft Anacostia River Trash TMDL as one of the BMPs necessary to achieve the WLA. **Again, the Implementation Plan is not complete and we recommend that litter reduction education and illegal dumping education be included in this section to ensure compliance.**

4) Under *Sec. 4.9.4* there is details about the opportunities that should be provided by the Permitee for public participation, but there is not specific requirements, ie no mention of the specific decision making processes that the public should be involved in, level of involvement, or amount and distribution of public materials. **We request that further detail be provided to ensure that public participation is adequate.** In particular, public participation in the development of the Trash TMDL Implementation Plan will be necessary, as this permit has relied heavily on this Implementation Plan as the method for addressing the trash both in the Anacostia and other watersheds.

5) We appreciate the inclusion of the Potomac Watershed Trash Treaty and the Potomac Watershed Trash Summit by mention in *Sec. 8.1*. As the catalysts for aggressively addressing the trash issue in the region it is appropriate to mention the Potomac Watershed Trash Treaty and Potomac Watershed Trash Summit in the permit, as they will be part of the means for supporting the required actions in the permit. However, we recommend amending this language to state more accurately **"Currently, TMDLs are under development for the Potomac River and a Trash TMDL for the Anacostia River (Refer to Potomac Watershed Trash Summit for a "Trash Free Potomac by 2013" and Potomac Watershed Trash Treaty, executed in 2005)."**

Overall, this permit is a step forward in improving stormwater control in the District of Columbia, particularly as it relates to the issue of. However, we feel that there is still opportunity for improvement, making this permit a model for other MS4 permits in the region and nationwide.

If you have any questions or concerns, please contact Laura Chamberlin, Coordinator of the Trash Free Potomac Watershed Initiative, at 202-746-1663 or lchamberlin@fergusonfoundation.org.

Sincerely,

Tracy Bowen
Executive Director

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