COUNCIL OF THE DISTRICT OF COLUMBIA
THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004

June 4, 2010

Jon Capacasa
U.S. EPA
Region III (3WP41)
Philadelphia, PA, 19103-5103

Dear Mr. Capacasa,

Thank you for this opportunity to comment on Draft NPDES Permit No. DC0000221, Authorization to Discharge under the National Pollutant Discharge Elimination System Municipal Separate Stormwater System (MS4) Permit.

As our nation's capital, the District deserves an MS4 permit that will serve as an example for the rest of the country. We need a progressive and practical permit that will help us prevent harmful stormwater pollution, preserve our local waterways, and build a vibrant waterfront that will promote livable, walkable, healthy neighborhoods.

The Council of the District of Columbia has demonstrated its leadership and commitment to restoring our city's waterways through recent key actions. We have taken a progressive, first-in-the-nation approach to reducing trash into our waterways by imposing a five-cent fee on disposable carryout bags and using the proceeds to create the Anacostia River Clean Up and Protection Fund. We adopted Anacostia Waterfront environmental standards, which require publicly-supported projects to retain or reuse on-site 1" of stormwater from a 24-hour storm following 47 hours of dry conditions. And we established a stormwater administration within the Department of the Environment as well as a Stormwater Permit Compliance Enterprise Fund to carry out MS4 Permit activities that have the greatest impact on reducing stormwater pollution.

We are pleased to see that the draft MS4 permit builds on the commitments that the Council has already made. In particular, we appreciate that the permit incorporates aggressive stormwater retention standards. We support the permit's use of measurable low impact development and green infrastructure requirements. These techniques have proven to be cost effective and environmentally beneficial mechanisms for dealing with stormwater pollution. Green infrastructure measures

specified in the permit, such as green roofs and tree planting, not only control stormwater pollution, but have the added benefits of improving air quality, reducing energy costs, and creating green jobs. However, we have several comments that we feel would improve the efficacy of the permit.

We recommend that the permit identify co-permittees in addition to the District Department of the Environment. Since some requirements of the permit (e.g., green streetscaping) fall directly within the authority of other government agencies (e.g., the District Department of Transportation), those agencies should be specifically named by the permit as the parties responsible for implementation. This revision would foster a sense of responsibility at all relevant agencies and improve the effectiveness of the permit.

All outcomes and plans required by the permit, such as the stormwater management plans or programs and TMDL implementation plans, should be subject to robust public participation, including public review and comment for draft plans.

Ultimately, the permit should commit the District to particularized, enforceable actions that are specific, objective, and observable and which result in reduction or elimination of pollutants to the maximum extent practicable. These characteristics must be present for both the public and private sectors. As currently written, the permit is vague and, in parts, unenforceable. The permit must have observable requirements including numbers and deadlines to measure success. This revision would assist the District in complying with the permit while enhancing EPA's ability to monitor and oversee implementation. The District is capable of requiring a certain number of trees to be planted, or a certain square footage of green roofs to be installed; however, we cannot easily comply with generalized standards.

We must emphasize in particular that we are concerned that the draft permit included no supporting data on the costs of implementing its requirements. This is particularly troubling in light of concerns that the federal government may hesitate to pay the impervious area fee that is designed to support MS4-related activities. Without some information on the likely cost of implementing the permit, we are left unsure of how much public funding must be dedicated to MS4-related programs or what impact additional costs might have on DC Water and Sewer Authority ratepayers, who are already footing the bill for the $2.2 billion required to implement the combined sewer overflow long term control plan under NPDES.

These last two points are key. Without proper funding and without identifying particular targets, the permit will fail to achieve its goal. The permit is meant to result in a better environment for the District, but that will only happen if the permit sets forth specific goals and takes into account a realistic review of costs.

We look forward to working with you to develop a permit that will reduce pollutants in the Anacostia River, Potomac River, and Rock Creek.

Sincerely,

Councilmember Mary M. Cheh

Councilmember Phil Mendelson

Councilmember Kwame Brown

Councilmember Jim Graham

Councilmember Tommy Wells