choose clean water

Ms. Kaitlyn Bendik
U.S. Environmental Protection Agency, Region 3
1650 Arch Street
Philadelphia, PA 19103
Bendik.Kaitlyn@epa.gov

August 10, 2012

Dear Ms. Bendik:

The undersigned organizations are members of the Stormwater Workgroup of the Choose Clean Water Coalition, and we urge you to accept the following comments on the U.S. Environmental Protection Agency (EPA) Region 3's proposed changes to the Municipal Separate Storm Sewer System (MS4) discharge permit for the District of Columbia. We fully support strengthening the permit in accordance with the public comment draft. Ensuring strong controls on urban and suburban runoff pollution is critical to the achievement of EPA's landmark cleanup plan for the waters of the Chesapeake Bay watershed.

Both the District Department of the Environment (DDOE) and EPA have identified the District's MS4 permit as key to meeting the pollution allocations to which the city is subject as a consequence of the final Chesapeake Bay total maximum daily load (TMDL). For instance, the District's Phase II watershed implementation plan (WIP) says that "compliance with the best management practices (BMPs) contained in the Permit will constitute compliance with the DC Water Quality Standards (DCWQS), and this will contribute to meeting [the District's] allocations as determined by the Chesapeake Bay Phase 5.3 model." EPA's evaluation of the Phase II WIP likewise finds that the permit provides "reasonable assurance" of the stormwater sector's ability to meet pollution reduction targets.

The proposed changes to the District's permit are helpful because they make clear that the District is responsible, by way of a TMDL implementation plan that becomes an enforceable component of the permit, for reducing pollution from the MS4 in order to meet wasteload allocations (WLAs) for the system. Specifically, the proposed amendment to the permit would:

- Make clear that the District's discharges must immediately meet water quality standards and applicable WLAs unless the District develops and complies with an EPA-approved TMDL Implementation Plan that contains an ultimate date for achieving each WLA and enforceable milestones that demand progress and eventual achievement of all TMDLs.
- Require DDOE to "provide meaningful opportunity for the public to participate in the development of the permittee's Consolidated TMDL Implementation Plan." Because the plan, upon EPA approval, is the means by which the District will limit its pollution, it is an effluent limitation that must be open for public input.
- Include annual numeric pollution reduction benchmarks that ensure constant assessment of the success of the plan and prompt adaptive management action to improve control programs to correct deficiencies that might delay achievement of WLAs or interim milestones.

- Incorporate numeric milestones, falling due at least every 5 years, that require the District to achieve specific pollutant reductions or other relevant measures of mandatory progress toward meeting WLAs. Failure to satisfy one of these milestones would be a permit violation.

Our groups support these permit improvements and urge Region 3 to include them in the final permit. Although we do not concede that these changes make the permit as strong as the Clean Water Act requires it to be, they – in combination with other permit provisions such as the strong retention standard for new and redeveloped sites – collectively will help ensure that the MS4 participates in the cleanup of numerous pollution-burdened water bodies in the District and in the Bay watershed.

Thank you for the opportunity to submit comments on this important action and for the agency's consideration of our views. If you have any questions, please do not hesitate to contact Peter J. Marx, the Choose Clean Water Coalition's Federal Affairs Director, at 443-759-3404 or Peter@ChooseCleanWater.org.

American Rivers
Anacostia Watershed Society
Audubon Naturalist Society
Chesapeake Bay Foundation
Citizens for Pennsylvania's Future (PennFuture)
Friends of Lower Beaverdam Creek
National Wildlife Federation, Mid-Atlantic Regional Center
Natural Resources Defense Council
Virginia Conservation Network