

Statement of Bruce A. Gilmore on Behalf of the Audubon Naturalist Society

Montgomery County Council Hearing on Stormwater MS4 Permit Financial Assurance Plan

March 9, 2021

Good afternoon, President Hucker, Vice President Alborno, and members of the County Council. My name is Bruce Gilmore, and I am a consultant to the Audubon Naturalist Society on stormwater policy matters in Maryland. I deliver this testimony on the draft Financial Assurance Plan representing Audubon Naturalist Society. I have had the opportunity to speak with DEP staff and thank them for their assistance in researching this year's FAP, as well as for their work protecting Montgomery County's environment—including, and going far beyond, stormwater management.

A Financial Assurance Plan (FAP) is required in order to assure that Montgomery County can fund the achievement of its Phase I MS4 permit goals to reduce impervious/hardened surfaces which is supposed to reduce stormwater borne water pollution.

As the Audubon Naturalist Society and the Maryland environmental community overall have stated numerous times, this goal is not now being achieved through the mechanisms encoded in the state-issued MS4 permit. We have found that the treatment/reduction of hardened surfaces set forth in the MS4 permit goals is not resulting in concomitant water pollution reductions, and the stormwater sector overall is falling behind supporting Maryland's goals towards the 2025 Chesapeake Bay cleanup.

While the FAP provides assurances that the County will have the financial resources to meet its current requirements, it repeatedly references a "20% restoration requirement." Councilmembers should understand that the 20% restoration requirement was for the 2010-2015 permit, and is now considered to be complete. Unless the Maryland Department of the Environment changes its plans for the next permit, to be issued in Summer 2021, that permit will only require an additional approximately 10% restoration requirement, not another 20%. That represents a substantial reduction in ambition and effort as a result of lowered state requirements. Therefore, to the extent that Montgomery County fee payers and the general public believe that as a result of paying their Water Quality Protection Charge they are cleaning up our watersheds – they are not getting enough of what they expected.

While some streams' health has been improving, many are still declining. What streams need is getting harder, too: in the summer, climate change drives more explosive storms that overwhelm the kinds of projects installed to date; and in the winter, more and more salt ahead of unpredictable snowstorms leads to toxic salinity conditions in streams--we're seeing that right now. The County needs to do more stormwater work, faster and more ambitiously, and must be funded accordingly.

The table on page (14) of the Council packet shows that WQPC revenue is predicted to hold almost steady, with what appear to be only small inflationary increases. The additional funds needed for capital, operations, and maintenance of impervious surface reduction projects are expected to come from a jump in MD Water Quality Revolving Loans and new sources of state and federal funded grants. Council should consider the extent to which the County is likely to receive these new, competitive revenue streams. To be clear, we do not oppose the County applying for grants and loans—we applaud it! But it does introduce an element of volatility that should be backstopped and well understood.

All this is to say: in ANS' assessment, the FAP is adequate to meet projected project costs. But it contains assumptions with a new element of risk, that the County will receive competitive grants and loans. And, it captures a lower level of ambition than in the past, to accelerate projects to reduce water pollution—needed even more now in the era of climate crisis. This capital budget, including the WQPC projections, were put together under the assumption that the public would not tolerate paying more for environmental protection. We question that assumption – let's educate ourselves, and the public, on what our watersheds really need, and then let's be sure we can pay for it.