



*Local governments working together for a better metropolitan region*

Sept. 3, 2009

Hon. Benjamin Cardin  
Chair, Water and Wildlife Subcommittee of the  
Senate Committee on Environment and Public Works.  
509 Hart Senate Office Building  
Washington, DC 20510

*District of Columbia*

*Bladensburg\**

*Bowie*

*College Park*

*Frederick*

*Frederick County*

*Gaithersburg*

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*Montgomery County*

*Prince George's County*

*Rockville*

*Takoma Park*

*Alexandria*

*Arlington County*

*Fairfax*

*Fairfax County*

*Falls Church*

*Loudoun County*

*Manassas*

*Manassas Park*

*Prince William County*

*\*Adjunct member*

Dear Senator Cardin:

I am writing to provide you with a local government perspective on urban stormwater issues as the subcommittee you chair, the Water and Wildlife Subcommittee of the Senate Committee on Environment and Public Works, debates reauthorization of Section 117 of the Clean Water Act.

The Metropolitan Washington Council of Governments (COG) is a regional association of 21 local governments in the Washington metropolitan region, whose combined population represents more than one-quarter of the population of the entire Bay watershed. As Chair of COG's Chesapeake Bay and Water Resources Policy Committee, I can assure you that all of COG's member jurisdictions share the subcommittee's concerns about the potential water quality impact of urban stormwater runoff and the need to strengthen already ambitious control efforts.

Toward that end, we believe that the "Chesapeake Bay Restoration Act of 2009," as introduced by Rep. Gerald Connolly of Virginia's 11<sup>th</sup> Congressional District, represents a good first step in addressing this issue. The bill embodies several of the lessons we've learned by administering stormwater management programs at the local level for more than 20 years.

These include:

- The need for flexibility in setting regulatory standards. The new state stormwater program regulations that have been enacted in Maryland and are being finalized in Virginia promote the use of environmental site design (ESD) and low impact development (LID) techniques without making their use an absolute requirement in all situations. Our experience in actually implementing these practices has proven the need for flexibility in meeting overall standards. We also need the freedom to innovate new practices and to refine our methods as we gain on-the-ground experience about what does and doesn't work
- The need to account for existing regulatory programs and avoid overlapping regulations that are difficult for local governments to administer. Local governments in the Washington region already cope with administering state stormwater management regulations and complying with the federal-state permitting program for municipal separate storm sewer systems (MS4s) that are increasingly more stringent. Further requirements will be added to our permit responsibilities when the Bay-wide Total Maximum Daily Load regulatory process is finalized in 2011.

A baseline federal performance standard, as envisioned by the Connolly legislation, should compliment rather than overlap these other requirements and should be drafted in such a way that it allows the Bay states and local governments to pursue its implementation through their existing stormwater management programs. We suggest that the performance standard be similar to that established in Maryland's pioneering 2007 Stormwater Management Act, i.e., "to meet after development, as nearly as possible, the pre-development runoff characteristics of the site."

- The need for federal cost-share assistance. In 2004, the Chesapeake Bay Watershed Blue Ribbon Finance Panel identified urban stormwater as the sector that requires the largest expenditures if we are to achieve the Bay's water quality goals. Five years later, urban stormwater remains the only major source of pollution in the Bay watershed without a significant dedicated source of federal or state cost-share funds. The single biggest financial need in this sector is for help in restoring degraded streams in older urban areas whose development predates the use of modern stormwater management technology. These extremely costly retrofits lack a dedicated funding source and cannot be funded solely out of fees on developers. Without another source of funding besides local governments, restoring degraded urban streams and providing modern stormwater management in older urban areas will take several decades to accomplish.

Finally, we expect EPA will provide new recommendations for addressing stormwater management in its draft report, due out next week, to the Federal Leadership Committee for the president's Executive Order on Chesapeake Bay Protection and Restoration. These, too, may suggest further revisions to the Connolly legislation.

We encourage your efforts to help revitalize the Bay restoration effort in a way that will establish equitable pollution reduction goals across all sectors and look forward to working with you in addressing urban stormwater issues. COG would like to expand upon these comments at a future congressional hearing on reauthorization of Section 117 of the Clean Water Act and respectfully requests consideration as a witness.

Should you have any questions or require further information, please contact Stuart Freudberg, COG's Director of Environmental Programs, at (202) 962-3340.

Sincerely,



Cathy Drzyzgula, Chair  
Chesapeake Bay and Water Resources Policy Committee  
City of Gaithersburg Council

CC: Rep. Gerald Connolly, Virginia 11<sup>th</sup> Congressional District  
Rep. Elijah E. Cummings, Maryland 7<sup>th</sup> Congressional District  
Other members of the COG region's congressional delegation  
Members of COG's Chesapeake Bay and Water Resources Policy Committee