Apartment B242
3680 38th Street, NW
Washington, DC 20016
July 2, 2013

District Department of the Environment
Stormwater Management Division
1200 First Street, N.E., 5th Floor
Washington, DC 20002

Re: Second Proposed Stormwater Rule Comments on
DDOE NPR: Stormwater Management, Soil Erosion
and Sediment Control and
Stormwater Management Guidebook – June 2013

Dear Friends:

I appreciate the opportunity provided by the District Department of the Environment (DDOE) to review and provide comments on the Second Proposed Stormwater Rule (Rule) and the revised version of DDOE's proposed Stormwater Management Guidebook, June 2013 (the revised SWMG).

I believe that the changes to the proposed Rule and SWMG create a more understandable framework for property owners to incorporate control of stormwater, soil erosion, and sediment in planning and implementing new or significant modification construction projects. They also provide a more thorough explanation of how key provisions work. However, please see specific remaining concerns about the Rule and SWMG in the following paragraphs.

Second Proposed Stormwater Rule

- I understand that some transition period may be necessary to allow for projects that have already been fully designed prior to the finalization of the new requirements. However, my reading of the current version of the proposed regulations indicates the incorporation of a transition period that would not require regulated sites to fully comply with the MS4 permit's 1.2-inch retention standard until 2015. This delay, especially the first 6-month period when no regulated sites would be responsible for achieving any retention at all, violates the permit's July 22, 2013 deadline to "adopt and implement" the retention standard under section 4.1.1 of the permit. *This section should be revised to be in compliance with the MS4 Permit requirements.*
- My reading of the proposed volume credit trading program is that it contains loopholes and exemptions that undermine the 1.2-inch standard beyond recognition. This proposal allows regulated entities to buy and sell credits representing retention that occurred long in the past or is slated to happen in the future. This means that practices built as early as 2009 could generate sellable credits that do not represent any new retention capacity beyond baseline conditions. This (and other "flexible" elements of the trading program) may provide administrative convenience. However, collectively, they seem to eliminate any certainty that the 1.2-inch storm volume will be captured during any given storm event or even any given year.

- This proposed Stormwater rule as well as the proposed DDOE and DC-Water rules for refunding the impervious area charges treat residential homeowners that live in **existing** cooperatives and condominiums differently from single family homeowners. The DDOE and DC-Water rules define **existing** cooperatives and condominiums as commercial property. While we do pool our money to pay for common services, we are assessed and pay residential property tax rates. (The DC property assessments are 30% land value and 70% home value.[1].) The proposed stormwater rule should be revised to apply the same rules and benefits to all homeowners.

Stormwater Management Guidebook, June 2013

- ***Use of Native Plants*** -- Appropriate use of natives can create a functional and aesthetically pleasing urban garden design. As I commented earlier, the list of suggested natives included in this handbook contains many plants that are not suitable for urban landscapes since they are all straight species with no cultivars (of which there are many for a number of the listed species). This approach to plant selection will result in a limited palate of plants used in the District and could lead to mono-cultures that can be wiped if attacked by an invasive pest (e.g., emerald ash borer). Such an approach will also reduce the bio-diversity of plants necessary to provide a healthy eco-system for insects which serve as pollinators and/or food for other species such as the Eastern song birds.

  Please note that there is a problem with the link to plant sources for the Prince Georges County list – the link no longer exists. Their new web page http://www.princegeorgescountymd.gov/sites/SustainabiltyServices/Resources/FAQ/Pages/default.aspx now contains links to several other websites for plant lists. I recommend that you include the National Park Service's website http://www.fws.gov/chesapeakebay/bayscapes.htm. This website provides an overview of the approach and provides a link to the Chesapeake Bay native plants data base as a resource for native plants.

- ***Reliance on Engineered Best Management Practices (BMPs)***

  - The SWMG relies almost totally on engineered best management practices (the exception being the planting of trees) to reduce stormwater runoff. This heavy reliance on engineered BMPs reduces the likelihood of homeowners in MS4 areas with significant amounts of lawn (including cooperatives and condominiums) participating in the credit trading program since the permitting, inspection and maintenance requirements for implementing one of the engineered BMPs are costly and without counter balancing benefits. As a result, the goals of reducing the quantity and improving the quality of the stormwater runoff reaching the Potomac or Anacostia Rivers may not be achieved or sustained.

  - The SWMG should be modified to include the Bayscaping that could result in the conversion of lawn areas which (for the most part in the District of Columbia) are

[1] District of Columbia Office of the Chief Financial Officer web site, Real Property Assessment Database at URL https://www.taxpayerservicecenter.com/RP_Search.jsp?search_type=Assessment.

as impervious as the concrete used in sidewalks, asphalt in parking lots and the materials used for roofs. The Bayscaping BMP could be implemented and inspected as follows to ensure compliance with DDOE requirements:

- Homeowners develop and submit an initial plan to DDOE which defines the area to be transformed and the plants included (similar to the plan for planting a rain garden).
- Inspection and approval of the final Bayscaping could be done by an inspector.
- DDOE could then use the city's GIS to ensure that the physical Bayscaping space remains (DDOE and DC-Water use this system to assess impervious area charges).
- Homeowners certify as part of their DC tax returns (which subjects them to being charged for fraud) that they are maintaining these areas in compliance with DDOE rules and guidelines. (Condominium associations would provide an annual certification to each homeowner to file with their taxes as they do for capital improvements.)
- DDOE could develop an inspection program to inspect these projects using either valid statistics or a periodic approach to validate compliance.

- The absence of Bayscaping as an acceptable BMP in this handbook along with the insignificant Impervious Area Charge (IAC) rebates that are being proposed by DC-Water are also an economic disincentive for homeowners to voluntarily invest in reducing stormwater runoff. The cost and return on investment for most engineered best management practices far exceeds the proposed 4 percent annual rebate that DC-Water is proposing on its IAC. For example:
  - The Stormwater from the 5.2 acres of lawn in my condominium community goes directly into the MS4 system along with the water from the roof (5.7 acres); parking lots (1.9 acres), and sidewalks (1.1 acres).
  - Only the 9.7 acres of tree canopy (which provide 40 percent coverage of the 23.8 acres)[2] contributes to the reduction of stormwater as well as provides aesthetic, energy, and environmental benefits. Our community will continue to invest in trees (new, replacement, and maintenance) since the costs and benefits are in balance.
  - The condominium is unlikely to invest in any of the other stormwater best management practices described in the revised SWMG. The costs (capital, maintenance, and intrusive but necessary inspections) for converting 3 acres of sidewalks and parking lots to pervious surfaces currently exceed the benefits of a 4 percent annual reduction of IAC fees.[3] The costs for installing any of the bio-retention BMPs in the SWMG also exceed the benefits.

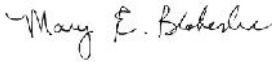
Therefore there is no economic incentive for most properties with the land to do so to voluntarily invest in any of the stormwater management best management practices included in this manual at this time given the current rules proposed by DDOE and DC-Water. I urge to consider adding

[2] Casey Trees Master Sustainable Site Plan for McLean Gardens, October 2012

[3] The condominium spent more than $20.0 million over 10 years to replace its slate roofs between 1995 and 2006. These roofs have a 80 to 100 year life cycle so it is not cost-effective to replace them with green roofs.

provisions to both the rule and the handbook to include Bayscaping as other Bay area governments do (e.g., Montgomery County) as a viable BMP for achieving the water quality and quantity goals of the District's MS4 permit.

Sincerely,



Mary E. Blakeslee

cc: Walter Smith, DC Appleseed Center for Law and Justice
Rebecca Hammer, NRDC
Mary Cheh, Ward 3 Councilmember
George Hawkins, DC-Water