



November 8, 2012

Mr. Brian Van Wye
Natural Resources Administration
District Department of the Environment
1200 First Street, N.E., 6th Floor
Washington, DC 20002

Via email: brian.vanwye@dc.gov

Re: District of Columbia Stormwater Management Regulation

Dear Mr. Van Wye:

As a businessman with a strong interest in cleaning and restoring the District of Columbia's severely degraded rivers as well as a continuing active role in the redevelopment of the Anacostia riverfront as Chairman of the Board of the Capitol Riverfront BID, I write to support the regulation proposed by the District's Department of the Environment. While some additional work needs to be done to insure that the innovative offsite credit system and "in lieu" fee system proposed by the regulation works well, the proposed regulation provides a good balance. The regulation:

- Provides that development and redevelopment capture fairly high volumes of stormwater, the principal polluter of the Anacostia, Rock Creek and the Potomac in the District.
- Provides a great deal of flexibility to developers and redevelopers in how they implement this capture, making the retention of these volumes practicable.
- Provides for the capture of stormwater with practices that will provide economic benefits to the District's businesses and residents, in terms of energy and water savings, increases in property values, and more attractive (and therefore, lucrative) retail and office environments.

While I am very interested in restoring the District's rivers and streams, especially the Anacostia, I would be hard pressed to support this regulation if the Department of the Environment had not proposed a regulation with a great deal of flexibility, providing the business community a wide array of paths toward meeting its fairly tough standards:

- Enables developers and redevelopers to implement stormwater control practices for 50% of the volume offsite.
- Allows the creation and purchase of “offsite retention credits” to allow developers and redevelopers to purchase credits from others who have implemented retention.
- Allows the “offsite” practices (and practices associated with offsite credits) to be anywhere in the District of Columbia.
- Allows developers and redevelopers to install any kind of management practices that retain the required amount of stormwater and not just practices that involve green vegetation, as some in the environmental community had proposed.
- Providing for a “fee in lieu” under which developers and redevelopers may pay for the District of Columbia to provide the needed retention rather than implement it themselves or buying credits

By providing developers and redevelopers a substantial amount of flexibility while holding them accountable for retaining a reasonable amount of stormwater on their sites, the regulation allows the market place to work to find the cheapest and most expeditious ways of providing the needed stormwater management, and I believe that, implemented well, this approach will prompt technical innovation.

To provide an example of how this type of innovation can make restoring our waters more practicable, please note that I have been following the progress of a technical innovation called Aqualok. Aqualok is a planting medium that retains a great deal of water, while weighing much less than regular soil. Aqualok has been installed as a “green roof” on Engine Company 12 on Rhode Island Avenue in the District. Preliminary but careful monitoring of this roof indicates that this material has the potential to make the installation of water-retaining roofs that achieve 1.2 inches of retention relatively easy and certainly more inexpensive than green roofs with soil. Constructed in conjunction with a cistern that saves the retained water for use in the fire station, it is also saving the District money by reducing its potable water cost. Soon the installer will provide calculations of how much energy this material is saving by providing additional insulation for this older building and the associated cost savings to the District. The flexibility in the proposed regulation promotes this kind of innovation, helping insure that in the future we can more easily protect and restore our rivers and creeks, while allowing business to provide the District with the type of high quality development and redevelopment appropriate to the Nation’s Capital.

The proposed regulation’s creation of a system that allows for offsite implementation of retention and retention credits, as I understand it, is the first of its type in the Nation. DDOE is to be congratulated for this innovation. However, as with all innovations, care needs to be taken to insure success.

In particular, I am concerned that DDOE puts enough resources into making the Offsite Retention Credit (OCRs) program work well and the “in lieu” fee system work well. For example, I understand that DDOE plans to record the existence of OCRs on an Excel spreadsheet that it updates and makes available to the public biannually. I believe it would be possible to create a database that would on a more “real-time” basis let developers and redevelopers know about OCRs that are available. If a biannual Excel spreadsheet is the only means by which of letting developers and redevelopers know of the existence of credits, they may not be able to take advantage of already existing credits, and the value of these credits may be suppressed. Nonprofit institutions may use the sweat equity of their members to create credits but may not have the marketing capability to market their credits to developers and redevelopers. Firms specializing in maintenance of stormwater practices may be able to market services to insure that the stormwater management practices behind existing credits are maintained to extend their environmental and economic life spans. In short, there are very good reasons for DDOE to expend the resources to insure that the OCR market is an open market and that credits created can be used expeditiously and with the least amount of bureaucratic or private sector red tape. In short, a public database of the credits created, used and available is needed. Further, I would like DDOE to develop a more detailed explanation of how it will administer the credit program overall to make it work well.

Moreover, for the “in lieu fees,” there has been little explanation provided for how these fees were derived. If the development community believes that these fees are too high, or the public and the environmental community believe that these fees constitute a development subsidy, the program will not be credible and may fail due to lack of support. DDOE needs to demonstrate that it can retain 1 gallon of stormwater for the fee charged for one gallon and that the fee charged is reasonable —otherwise, in a few years, we will all be reengaged in an unnecessary and perhaps fruitless discussion of these issues creating uncertainty. I recommend that DDOE provide a detailed explanation of how it derived the fees and how it will insure that these will be used to create the retention necessary to offset development and redevelopment.

In short, I believe that the proposed regulation is sound, but that additional work needs to be done to insure that the innovations in the proposed regulation can live up to their promise of making compliance with a tough standard as cheap and easy as possible.

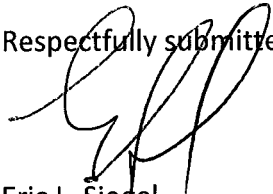
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Thank you for the opportunity to comment on the proposed regulation and please contact me if I can provide additional details or be of further service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Siegel', written over the text 'Respectfully submitted,'.

Eric L. Siegel

Executive Vice President