# Fairfax County, Virginia

# **Polychlorinated Biphenyl (PCB) TMDL Action Plan** Final Submittal to Virginia DEQ





March 31, 2017



# Fairfax County PCB TMDL Action Plan

March 31, 2017

# **Table of Contents**

1	Introduction	1 -
	1.1 Purpose	1 -
	1.2 Cooperative Approach with Towns of Herndon and Vienna	1 -
	1.3 Permit Compliance Crosswalk	2 -
2	PCB TMDL Action Plan	3 -
	2.1 TMDL Report	
	2.2 Pollutant of Concern	3 -
	2.3 PCB TMDL	4 -
	2.4 Evaluation of Significant Sources of PCBs	8 -
	2.4.1 MS4 Service Area Delineation Methodology	8 -
	2.4.2 Identification of County Facilities within the Tidal Potomac Watershed	8 -
	2.4.3 Evaluation of Significant Sources of PCBs	8 -
	2.5 Existing and Planned Management Controls	11 -
	2.5.1 MS4 Program Plan	11 -
	2.6 Legal Authorities	11 -
	2.7 Enhanced Education, Outreach, and Training	12 -
	2.7.1 Training on Recognition and Reporting of Illicit Discharges by Field Personnel	12 -
	2.7.2 Training on Good Housekeeping and Pollution Prevention Practices	12 -
	2.8 Schedule and Milestones	12 -
3	Assessment of Effectiveness	
4	Measurable Goals	
5	Public Comments	

# Tables

Table 1A – Action Plan and Permit Compliance Crosswalk	2 -
Table 2A – WLAs Assigned to Direct Drainage Areas of Fairfax County	4 -
Table 2B - MS4 Program Plan Elements Related to Meeting the Tidal Potomac PCB TMDL1	1 -

# Figures

Figure 2A – Direct Drain Watershed Segments to the Tidal Potomac	6
Figure 2B – PCB Impaired Segments of the Potomac River	7
Figure 2C - Fairfax County MS4 Service Area Delineation	9

# Appendices

Appendix A	Cooperative Agreement Between the Fairfax County Board of Supervisors and the Towns of Herndon and Vienna
Appendix B	County Properties in MS4 and in Direct Drainage Areas Subject to PCB TMDL

Appendix C Public Comments

# Fairfax County PCB TMDL Action Plan

March 31, 2017

# **1** Introduction

#### 1.1 Purpose

This Polychlorinated Biphenyl (PCB) TMDL Action Plan documents how Fairfax County intends to meet the "TMDL Action Plans other than the Chesapeake Bay TMDL" in Part I.D.2 of its Phase I MS4 Permit (No. VA0088587). The county's most recent permit was issued by the Virginia Department of Environmental Quality (DEQ) effective April 1, 2015 and will expire March 31, 2020.

The county's MS4 permit requires the development and implementation of action plans for impaired streams where a Total Maximum Daily Load (TMDL) assigns a waste load allocation (WLA) to the county that has been approved by the State Water Control Board. A TMDL establishes the maximum amount of a pollutant that can enter a water body without violating water quality standards.

The Total Maximum Daily Loads of Polychlorinated Biphenyls (PCBs) for Tidal Portions of the Potomac and Anacostia Rivers in the District of Columbia, Maryland, and Virginia (PCB TMDL) was established by the U.S. Environmental Protection Agency in 2007, and adopted by the State Water Control Board on April 11, 2008. While the Potomac River PCB TMDL assesses the tidal Potomac River and tributary waters, the TMDL only establishes WLAs for the direct drainage portions of the MS4 permitted jurisdictions.<sup>1</sup> The TMDL for the tidal Potomac River is set at an aggregate 1,510 grams per year.

PCBs are a legacy pollutant and were used as a coolant and as an insulator, particularly in transformers, hydraulic equipment, and electrical equipment. The manufacture of PCBs was banned in 1979; however, PCBs are persistent in the environment and do not readily decompose under normal conditions. They also tend to settle into the sediment of waterways or adsorb to terrestrial soils. PCBs may still be released by illegal or improper dumping of PCB-containing wastes or leaks from legacy electrical transformers containing PCBs.

#### 1.2 Cooperative Approach with Towns of Herndon and Vienna

As allowed by Section I.D.1.b)2)(c) of the county's MS4 permit, the county has entered into an agreement with the towns of Herndon and Vienna to cooperate in the development of TMDL action plans. The

<sup>&</sup>lt;sup>1</sup> The applicability of the Potomac River PCB WLA to only that portion of the county MS4 with the area defined as direct drainage in the TMDL was confirmed by Jennifer Carlson, Regional TMDL Coordinator for DEQ's Northern Regional Office, in a phone conversation on July 30, 2015.

agreement, included as Appendix A in the county's Chesapeake Bay TMDL Action Plan, was adopted by the county on March 8, 2017.

In accordance with the agreement, the cooperating localities may develop joint strategies to reduce TMDL pollutants of concern. At this time there are no shared strategies for PCBs. Any changes will be documented to DEQ in the county's MS4 annual reports.

# **1.3** Permit Compliance Crosswalk

DEQ published Guidance Memo No. GM-16-2006 on November 21, 2016 for MS4s to use in the development of local TMDL action plans. Table 1A provides an overview of the organization of this plan and how each section addresses the county's MS4 permit and the draft guidance.

Action Plan	Action Plan Element	DEQ Local TMDL Action Plan Guidance	MS4 Permit
Section 1	Introduction		
Section 2.1	TMDL Report	The name(s) of the Final TMDL report(s);	Section I.D.2.
Section 2.2	Pollutant of Concern	The pollutant(s) causing the impairment(s);	Section I.D.2.b)1)
Section 2.3	Section 2.3 PCB TMDL The WLA(s) assigned to the MS4 as aggregate or individual WLAs;		Section I.D.2.b)2)
Section 2.4	Section 2.4SignificantSignificant sources of POC(s) from facilities of concern owned or operated by the MS4 operator that are not covered under a separate VPDES permit. A significant source of pollutant(s) from a facility of concern means a discharge where the expected pollutant loading is greater than the average pollutant loading for the land use identified in the TMDL;		Section I.D.2.b)4)
Section 2.5 Existing and Planned Management Controls		Existing or new management practices, control techniques, and system design and engineering methods that have been or will be implemented as part of the MS4 Program Plan that are applicable to reducing the pollutant identified in the WLA;	Section I.D.2.b)2)
Section 2.6 Legal Authorities Legal authorities such as ordinances, state and permits, orders, specific contract language, and inter-jurisdictional agreements applicable to reducing the POCs identified in each respectiv TMDL;		Legal authorities such as ordinances, state and other permits, orders, specific contract language, and inter-jurisdictional agreements applicable to reducing the POCs identified in each respective TMDL;	Section I.D.2.b)1)

 Table 1A – Action Plan and Permit Compliance Crosswalk

Action Plan	Action Plan Element	DEQ Local TMDL Action Plan Guidance	MS4 Permit
Section 2.7	Enhanced Education, Outreach, and Training	Enhancements to public education, outreach, and employee training programs to also promote methods to eliminate and reduce discharges of the POC(s) for which a WLA has been assigned;	Section I.D.2.b)3)
Section 2.8	Schedule and Milestones	A schedule of interim milestones and implementation of the items in 5, 6, and 7;	Section I.D.2.b)5)
Section 3	Assessment of Effectiveness	Methods to assess TMDL Action Plans for their effectiveness in reducing the pollutants identified in the WLAs; and	Section I.D.2.b)5)
Section 4	Measurable Goals	Measurable goals and the metrics that the permittee and Department will use to track those goals (and the milestones required by the permit). Evaluation metrics other than monitoring may be used to determine compliance with the TMDL(s).	Section I.D.2.b)5)
Section 5	Public Comments		Section I.D.2.b)6)

# 2 PCB TMDL Action Plan

# 2.1 TMDL Report

The Total Maximum Daily Loads of Polychlorinated Biphenyls (PCBs) for Tidal Portions of the Potomac and Anacostia Rivers in the District of Columbia, Maryland, and Virginia was established by the U.S. Environmental Protection Agency on October 31, 2007 and adopted by the State Water Control Board on April 11, 2008.

The tidal waters of the Potomac River and several of its tributaries were placed on the Virginia 303(d) impaired waters lists for elevated fish tissue levels of PCBs starting in 2002. The District of Columbia, Maryland, and Virginia agreed to coordinate the TMDL development process. The objective of the PCB TMDL is to ensure that the "fish consumption" use is protected in each of the impaired waterbodies by identifying maximum allowable loads of PCBs that would meet the applicable PCB water quality criteria and result in fish tissue PCB concentrations that do not exceed jurisdictional thresholds. See Section 2.3 for more information on the TMDL WLAs.

# 2.2 Pollutant of Concern

The cause of the impairment is PCB in fish tissue for the impaired segments addressed in the TMDL. As described in the 2014 impaired waters fact sheet, the fish consumption use is categorized as impaired due to a Virginia Department of Health, Division of Health Hazards Control, PCB fish consumption advisory. The advisory, dated April 19, 1999 and modified December 13, 2004 and October 7, 2009, limits consumption of bullhead catfish, channel catfish less than eighteen inches long, largemouth bass,

anadromous (coastal) striped bass, sunfish species, smallmouth bass, white catfish, white perch, gizzard shad, and yellow perch to no more than two meals per month. The advisory also bans the consumption of American eel, carp, and channel catfish greater than eighteen inches long.

# 2.3 PCB TMDL

In Table 10 of the PCB TMDL, the following MS4 permits are aggregated under the Fairfax County primary location:

- Fairfax County
- City of Fairfax
- City of Falls Church
- Fairfax County Public Schools
- George Mason University
- George Washington Memorial Parkway
- Northern Virginia Community College
- Town of Vienna
- US Army Fort Belvoir
- US Central Intelligence Agency George Bush Center

The cities of Falls Church and Fairfax are assigned their own WLAs in the TMDL. Fairfax County's WLAs are assigned as shown in Table 2A. These stormwater WLAs only apply in the areas directly draining to the tidal Potomac as shown in Figure 2A. The PCB impaired segments of the Potomac River in Fairfax County are shown in Figure 2B.

Direct Drainage Waterbody	Watershed Code (see Figure 2A)	Baseline (g/yr)	WLA (g/yr)	Percent Reduction
Upper Potomac (Pimmit Run) VAN- A12R_PIM01A00	4910	78.6	0.973	98.8%
Lower Potomac (Fourmile Run) VAN-A12R_FOU01A00	4960	19.9	0.943	95.3%
Dogue Creek: VAN-A14E_DOU0A00 Little Hunting Creek: VAN-A14E_LIF01A00 VAN-A14R_LIF01A08 Potomac River Upper (VA segment): VAN-A14E_POT01A08	4980	85.9	37.4	56.5%
Hunting Creek: VAN-A13E_HUT01A02	5090	39.7	5.65	85.8%

Table 2A – WLAs Assigned to Direct Drainage Areas of Fairfax County

Direct Drainage Waterbody	Watershed Code (see Figure 2A)	Baseline (g/yr)	WLA (g/yr)	Percent Reduction
Accotink Bay:				
VAN-A15E_ACO01A06				
Gunston Cove:				
VAN-A15E_POH01A00	5131	8.54	8.11	5%
Pohick Bay:				
VAN-A15E_POH02A00				
VAN-A16E_POH01A06				
Belmont Bay/Occoquan Bay:				
VAN-A25E_OCC01A04				
VAN-A25E_OCC01A12				
VAN-A25E_OCC02A00				
VAN-A25E_OCC03A04				
VAN-A25E_OCC04A02				
VAN-A25E_OCC20A02	5251	9.81	1.64	83.3%
VAN-A25E_OCC30A02				
Occoquan River:				
VAN-A25E_OCC04B08				
VAN-A25E_OCC05A02				
Potomac River Middle:				
VAN-A25E_POT01A10				
Total		242	54.7	74.7%

Source: Table 12 from Total Maximum Daily Loads of PCBs for Tidal Portions of the Potomac and Anacostia Rivers in the District of Columbia, Maryland, and Virginia

The TMDL states that "For those watersheds where the percent reduction is 5%, all of that reduction is due to the Margin of Safety (MOS). It is expected that the proposed 93% reduction in atmospheric deposition of PCBs will accomplish the 5% reduction in loads represented by the MOS." Therefore, TMDL watershed 5131 was not assessed for pollutant sources.



Figure 2A – Direct Drain Watershed Segments to the Tidal Potomac

Source: Based on Figure 8 from Total Maximum Daily Loads of PCBs for Tidal Portions of the Potomac and Anacostia Rivers in the District of Columbia, Maryland, and Virginia





## 2.4 - Evaluation of Significant Sources of PCBs

This action plan is directed at those facilities and activities that are most likely to constitute a significant source of PCBs to surface waters. The first step in implementing this approach was to identify the portion of the county MS4 that is subject to the PCB TMDL. The second step was to evaluate whether the facilities and activities subject to the TMDL are considered a significant source of PCBs.

# 2.4.1 MS4 Service Area Delineation Methodology

The MS4 service area is defined in the MS4 permit as those areas draining to outfalls owned or operated by the County that discharge to surface waters. Storm sewer system GIS data (including MS4 outfalls) was used in conjunction with hydrologic features, local topographic data, and high-resolution aerial photos to delineate the MS4 boundaries and create MS4 boundary polygon layers. Artificial conveyances and natural drainage features were thoroughly reviewed in a GIS environment by engineers and planners in order to accurately account for storm sewer drainage areas and determine break points between the manmade and natural hydrologic systems.

The County considered the following MS4 permit holders in the development of its service area: Arlington County (VA0088579); City of Alexandria (VAR040057); Town of Herndon (VAR040060); City of Fairfax (VAR040064); City of Falls Church (VAR040065); Town of Vienna (VAR040066); Loudoun County (VAR040067); U.S. Army – Fort Belvoir (VAR040093); Northern Virginia Community College (VAR040095); Central Intelligence Agency (VAR040101); George Mason University (VAR040106); George Washington Memorial Parkway (VAR040111); Metropolitan Washington Airport Authority (VAR040120); U.S. Geological Survey (VAR040126); and, Virginia Department of Transportation (VAR040115).

Figure 2C shows the County's MS4 service area delineation and the PCB TMDL watersheds. The County submitted a detailed MS4 service area to DEQ by the deadline of October 1, 2016 established in the MS4 permit but has not received any feedback from DEQ on the submittal. As such, the approach outlined in GM16-2006 was used for the local TMDL Action Plans and it was assumed that the "overall reduction assigned to the aggregated WLA should be addressed consistently by all MS4 permittees."

#### 2.4.2 - Identification of County Facilities within the Tidal Potomac Watershed

The WLAs in the TMDL are limited to the direct drainage watershed segments to the tidal Potomac. An evaluation of the county regulated MS4 service area was conducted to identify county properties within the MS4 area that discharge to the area impacted by the PCB TMDL. This evaluation identified the county properties (other than open space, park land and housing properties) listed in Appendix B.

#### 2.4.3 - Evaluation of Significant Sources of PCBs

A desktop evaluation of county facilities within the regulated MS4 services area (Appendix B) was completed to determine the likelihood of PCB contamination that could affect stormwater runoff. Two factors were used to determine that none of the county facilities is likely to be a significant source of PCBs.



Figure 2C - Fairfax County MS4 Service Area Delineation

First, none of the county facilities subject to this action plan fall under one of DEQ's high risk categories for PCBs. High risk category sites for potential sources of residual PCBs include the following Standard Industrial Classifications (SICs): 26&27 (Paper and Allied Products), 30 (Rubber and Misc. Plastics), 33 (Primary Metal Industries), 34 (Fabricated Metal Products), 37 (Transportation Equipment), 49 (Electrical, Gas, and Sanitary Services), 5093 (Scrap Metal Recycling), and 1221 & 1222 (Bituminous Coal).

Secondly, the county researched the U.S. Environmental Protection Agency (EPA) PCB Transformer Registration Database at <u>https://www.epa.gov/pcbs/registering-transformers-containing-polychlorinated-biphenyls-pcbs</u> to determine if any county properties are registered sites, indicating the presence and location of PCB-containing transformers that may be located on county properties. No county facilities are listed as currently operating a PCB-containing transformer.

In addition, the U.S. EPA cited potential indoor uses of PCBs as having the potential of entering the environment if not disposed of properly. These include but are not limited to fluorescent light ballast and caulking. Two county properties were constructed before PCBs were banned in 1979 and have not undergone renovation since that time:

- Willston Multicultural Center
- Woodlawn Fire Station #24 (renovation approved as part of the fall 2015 Public Safety Bond Referendum)

Any PCBs at these properties would only become a source of stormwater pollution if disposed of improperly in contravention of county, state, and federal requirements.

Dominion Virginia Power maintains transformers that are part of the system of providing electric service to county properties. Dominion confirmed that the majority of transformers are filled with non-PCB mineral oil. However, there may be transformers in service that were manufactured prior to July 1979 that could contain detectable levels of PCB. Dominion noted that under normal operating conditions, these facilities are not subject to leaking or spilling. If an incident were to occur, Dominion has in place plans and procedures to promptly respond in accordance with state and federal regulatory requirements.

Railroad transformers are specifically listed as a potential source of PCBs by the U.S. EPA. Several railroads operate in Fairfax County: CSX and Norfolk Southern. Both of these railroads are privately owned and operated. The Washington and Old Dominion (W&OD) Trail traverses through Fairfax County. The W&OD Trail was previously the rail bed of the former Washington and Old Dominion Railroad, which closed in 1968. The trail was constructed between 1974 and 1988, which included removal of transformers and other railway-related equipment.

Based on this evaluation, the county has determined that no particular county site or operation is considered a significant source of PCBs. Therefore, the actions proposed in this action plan focus on educating staff to heighten awareness of potential PCB sources, such as an older transformer operated by Dominion Virginia Power, and how to respond to the discovery of an unexpected source of PCBs.

## 2.5 Existing and Planned Management Controls

Fairfax County has put into place all necessary programmatic and legal requirements to meet the "TMDL Action Plans other than the Chesapeake Bay TMDL." The details of the existing program elements and associated legal authorities required to comply with the PCB TMDL are discussed in this section.

# 2.5.1 MS4 Program Plan

Fairfax County has adopted an MS4 Program Plan that documents implementation of all MS4 permit requirements, including the necessary programmatic and legal authorities to fully implement the plan. The full MS4 Program Plan can be found at <a href="http://www.fairfaxcounty.gov/dpwes/stormwater/ms4permit.htm">http://www.fairfaxcounty.gov/dpwes/stormwater/ms4permit.htm</a>. Table 2B provides a summary of elements of the program plan implemented by the county under the MS4 permit that relate to controlling discharges that have the potential to contain PCBs.

MS4 Program Plan Element	MS4 Program Plan Elements Related to Understanding and Controlling Various Pollutants, Including PCBs
Illicit Discharges and Improper Disposal	Fairfax County implements a program to locate and eliminate illicit discharges and improper disposal into the MS4 per Section I.B.2.e)5) of its MS4 permit. This program includes both direct sources of PCBs and sediment that can have attached PCBs.
Industrial & High Risk Runoff	Fairfax County implements a program to identify and control pollutants in stormwater discharges to the MS4 from industrial and high risk runoff facilities and any other industrial or commercial discharges the county determines are contributing a significant pollutant loading to the MS4 per Section I.B.2.g) of its MS4 permit.
(IHRR)	Virginia DEQ's 2016 document titled "The Relationship between Polychlorinated Biphenyls (PCBs), VPDES Wastewater/Stormwater Facilities, Stormwater Industrial General Permitted Facilities (ISWGPs), and the Standard Industrial Classification System (SIC)" identifies specific SIC codes that are more likely to be associated with the presence of PCBs. These SIC codes will be included in the process of identifying IHRR facilities for inspection.
County Facilities	Fairfax County has identified high priority municipal facilities that have a high potential of discharging pollutants and will implement Stormwater Pollution Prevention Plans (SWPPPs) on these sites by April 1, 2018.

Table 2B – MS4 Program Plan Elements Related to Meeting the Tidal Potomac PCB TMDL

# 2.6 Legal Authorities

The county's primary tool for preventing the discharge of PCBs to the storm sewer system is Section 124-9-3 of the County Code, which states "It shall be unlawful for any Person to discharge or deposit, or to cause or allow to be discharged or deposited in the County MS4, any wastes, trash, leaves, grass clippings, oil, petroleum products, noxious or flammable substances, or any matter causing or adding pollution; provided however, that leaves may be piled at curbs during such seasons and in such areas as may now or in the future be furnished mechanical leaf collection service. It is the intent of this provision to prohibit the entry into the County MS4 of any substance, whether solid or liquid, other than naturally occurring surface or subsurface waters."

After review of the County Code, the county does not believe that additional legal authority is required for compliance with the requirements of Section I.D.2 of the MS4 Permit (TMDL Action Plans other than the Chesapeake Bay TMDL).

# 2.7 Enhanced Education, Outreach, and Training

Fairfax County will enhance existing education, outreach, and training programs to heighten awareness of potential PCB sources and how to respond to the discovery of an unexpected source of PCBs.

2.7.1 Training on Recognition and Reporting of Illicit Discharges by Field Personnel

MS4 Action ID B.2.k.1 of the existing MS4 Program Plan provides for training to field personnel to recognize and address illicit discharges that can negatively surface waters. This training will be modified to include information on PCBs. The training will provide field personnel with information that will help them identify illicit discharges that may have a potential to include PCBs. This information will be included in existing illicit discharge training.

2.7.2 Training on Good Housekeeping and Pollution Prevention Practices

Fairfax County staff that work at county maintenance, public works facilities, and county recreation facilities are trained in good housekeeping and pollution prevention techniques as detailed in MS4 Action IDs B.2.k.3 and B.2.k.7 of the MS4 Program Plan. This training will be modified to include information on PCBs. This information may include:

- Potential sources that may be encountered at county facilities; -
- Legacy activities that could contribute to PCB pollution on historic county sites; and, -
- What to do if you discover equipment, machinery, or contaminated soil that may contain PCBs.

#### 2.8 Schedule and Milestones

The process of identifying IHRR facilities for inspection will be modified in PY3 to include SIC codes from Virginia DEQ's 2016 document titled "The Relationship between Polychlorinated Biphenyls (PCBs), VPDES Wastewater/Stormwater Facilities, Stormwater Industrial General Permitted Facilities (ISWGPs), and the Standard Industrial Classification System (SIC)".

The education and training actions in Section 2.7 will be developed and implemented in Permit Year 3 (PY3) in the following manner:

- MS4 Action ID B.2.k.1 Existing training material will be revised in PY3 to include information relevant to PCB discharges. The training will be implemented in PY4 as part of the ongoing biennial training program.
- MS4 Action IDs B.2.k.3 and B.2.k.7 Training materials will be revised in PY3 to include information relevant to potential PCB sources and steps to take if a source of PCBs is discovered

at a county property. The training will be implemented in PY4 as part of the ongoing biennial training program.

# **3** Assessment of Effectiveness

Since no new sources of PCBs are allowed under federal law, reductions in PCB loads rely on the identification and correction of presently unknown sources to the MS4, if any. A review of potential sources in Section 2.4.3 determined that no particular county site or operation is considered a significant source of PCBs. Therefore, the actions proposed in this action plan focus on educating staff to be aware of potential PCB sources.

An effective training program will ensure that targeted staff have a working understanding of the potential sources of PCBs and what actions must be taken if a potential source is discovered or suspected. As a result, the measure of effectiveness of this plan is the successful delivery of this training. As described in Section 2.8, PCB-specific training will be included in MS4 Action ID B.2.k.1, MS4 Action ID B.2.k.3, and MS4 Action ID B.2.k.7 of the Fairfax County MS4 Program Plan. In addition, MS4 Action ID B.2.k.8 ensures that appropriate emergency response employees are trained in spill response. All training will be documented in annual reports to DEQ and will include example training materials and employee sign-in sheets. Should a source of PCBs ever be discovered, the county will assess the effectiveness of the training in identifying the source and take appropriate follow up actions. Modifications will then be made to the TMDL action plan, if necessary.

# 4 Measurable Goals

The county will document training activities on a yearly basis. Training material will be maintained, along with rosters for each training event that will include the date of the training along with personnel in attendance. This training will be documented in the MS4 annual reports.

# 5 Public Comments

The draft PCB TMDL Action Plan was presented at public meetings on December 14 and 15, 2016 at the Fairfax County Government Center and on January 3, 2017 at the Mount Vernon Government Center. The action plan and presentation were also posted to the County's website. The County invited public comment through January 27, 2017. The action plan and public comments were then presented to the Board of Supervisors Environmental Committee on February 7, 2017. Public comments and the County's responses are provided in Appendix C.

Fairfax County PCB TMDL Action Plan -Final Submittal to DEQ – March 31, 2017 -

# Appendix A

Cooperative Agreement Between the Fairfax County Board of Supervisors and the Towns of Herndon and Vienna Fairfax County PCB TMDL Action Plan -Final Submittal to DEQ – March 31, 2017 -

#### COOPERATIVE AGREEMENT BETWEEN THE FAIRFAX COU7.NTY BOARD OF SUPERVISORS, THE TOWN OF VIENNA, and TOWN OF HERNDON TO SHARE CERTAIN STORMWATER SERVICE DISTRICT FEES AND RESPONSIBILITY FOR RELATED SERVICES

This Agreement ("Agreement") is entered into on this <u>Stud</u> day of <u>MARCH</u>, 2017, by and between the BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA ("FAIRFAX"), the TOWN COUNCIL OF VIENNA, VIRGINIA ("VIENNA"), and the TOWN COUNCIL OF HERNDON, VIRGINIA ("HERNDON") (referenced collectively as the "Parties" or "the Governing Bodies", and individually as the "Party").

#### WITNESSETH:

WHEREAS the Towns of Vienna and Herndon (also referenced herein as "the Towns") are located within Fairfax County (also referenced herein as "the County"); and

WHEREAS Fairfax County, the Town of Vienna, and the Town of Herndon each maintain, operate, and improve stormwater systems that affect one another; and

WHEREAS Fairfax County and the Towns are each subject to a Municipal Separate Storm Sewer System ("MS4") permit issued by the Virginia Department of Environmental Quality ("DEQ"); and

WHEREAS FAIRFAX has cooperated with VIENNA and HERNDON to maintain, operate, and improve their respective stormwater systems and wish to continue such cooperation in the future in the best interests of their residents; and

WHEREAS pursuant to Va. Code Ann. § 15.2-2400 (2012), FAIRFAX has established a Stormwater Service District ("Service District"), and is authorized, pursuant to Va. Code Ann. § 15.2403(6) (Supp. 2016) to levy and collect an annual fee upon any property located within such Service District ("the Service District Fee"); and

WHEREAS the Towns of Vienna and Herndon are located within Fairfax County's Service District; and

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WHEREAS, pursuant to Va. Code Ann. § 15.2-2403(6), Fairfax County collects revenues from properties located within the Towns of Vienna and Herndon; and

WHEREAS, pursuant to Va. Code Ann. § 15.2-2403.3 (Supp. 2016), by virtue of the Towns' maintenance of separate MS4 permits and their location within the Service District, the Towns are entitled to the Service District Fee revenues collected by Fairfax County within their respective jurisdictions; and

WHEREAS, the actual amount of revenues collected from the Service District Fee will vary from year to year; and

WHEREAS, each MS4 permit, among other things, assigns jurisdiction-specific, pollutant load reduction requirements for nitrogen, phosphorus, and sediment to address the Chesapeake Bay Total Maximum Daily Load (referred to herein as "TMDL"), and requires each MS4-permit jurisdiction to develop a Chesapeake Bay TMDL Action Plan that identifies the practices, means, and methods that are to be implemented by the permittee to achieve the required pollutant reductions; and

WHEREAS, the Commonwealth's Chesapeake Bay TMDL Watershed Implementation Plan (referred to herein as "the WIP") establishes the total pollutant reduction loads required to achieve the Chesapeake Bay TMDL and the timeframe for MS4-permit jurisdictions to achieve their assigned pollutant reductions; and

WHEREAS, each MS4 permit also requires the development of action plans for other pollutants where a TMDL assigns a wasteload allocation ("WLA") to the permittee; and

WHEREAS, pursuant to their respective MS4 permits, the Towns submitted their initial Chesapeake Bay TMDL Action Plans to DEQ prior to the deadline of October 1, 2015 while the County's initial Chesapeake Bay TMDL Action Plan will be submitted to DEQ prior to the deadline of April 1, 2017. Action plans for other TMDLs are submitted in accordance with the schedule contained in each MS4 permit; and

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WHEREAS, while each MS4-permit jurisdiction is ultimately responsible for compliance with its MS4 permit, MS4 permits allow and encourage cooperation and coordination among permit holders, and such cooperation and coordination can mutually benefit MS4-permit jurisdictions through more effective and cost-efficient protection of water resources in each jurisdiction; and

WHEREAS, the purpose this Agreement, in part, is for the Parties to work cooperatively to satisfy the pollutant load reduction requirements of their current and future MS4 permits by implementing stormwater management practices within the Parties' jurisdiction that reduce the discharge of pollutants; and

WHEREAS, FAIRFAX, VIENNA, or HERNDON may terminate this Agreement as set forth by the terms herein if, pursuant to applicable law, either locality chooses not to participate under this Agreement or chooses not to share the Stormwater Service District Fees; and

WHEREAS FAIRFAX, VIENNA, and HERNDON have determined and agreed that the best interests of each locality's residents are fulfilled if FAIRFAX utilizes a portion of the Service District Fees collected by FAIRFAX from properties within the Towns to assist the Towns in maintaining, operating, and improving their respective stormwater systems to achieve the goals of effective regional water quality improvement and local initiatives in these localities and to satisfy certain MS4 permit requirements;

NOW, THEREFORE, in consideration of the mutual obligations set forth herein and other good and valuable consideration, so long as FAIRFAX continues to administer the Service District in FAIRFAX that encompasses VIENNA and HERNDON, and so long as VIENNA and HERNDON qualify to receive the Service District Fees collected by FAIRFAX from properties within the Towns, FAIRFAX, VIENNA, and HERNDON agree as follows:

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1. FAIRFAX will continue to engage in a coordinated approach with VIENNA, and HERNDON to maintain and operate their respective stormwater systems throughout the incorporated and unincorporated parts of FAIRFAX. Moreover, FAIRFAX, VIENNA, and HERNDON will engage in a coordinated approach for future improvements to their respective stormwater systems.

2. This Agreement's duration shall be for one fiscal year and shall renew at the beginning of each fiscal year thereafter unless terminated pursuant to the terms set forth herein below. For the purposes of this Agreement, "fiscal year" shall mean Fairfax County's fiscal year, which, at the time of the execution of this agreement, ends on June 30.

3. This Agreement's purpose is to set forth how the Parties shall share revenues to be collected pursuant to the Service District Fee, including revenues collected from properties within VIENNA and HERNDON, and the respective obligations of the Parties with respect to the stormwater management services described herein.

#### STORMWATER FEE REVENUE SHARING

4. FAIRFAX shall collect all revenues to be collected pursuant to the Service District Fee, including revenues collected from properties within the Towns.

5. Revenues actually collected throughout the Service District are referred to herein as "STORMWATER FEE REVENUES."

6. At the end of each fiscal year, FAIRFAX shall calculate separately the total amount of stormwater fee revenues that were actually collected from properties within VIENNA and HERNDON from the amount of stormwater fee revenues collected elsewhere in FAIRFAX (the "VIENNA STORMWATER FEE" and "HERNDON STORMWATER FEE").

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7. On or before October 30<sup>th</sup> of each fiscal year, FAIRFAX shall estimate the anticipated VIENNA STORMWATER FEE and HERNDON STORMWATER FEE for that year, and shall pay to VIENNA and HERNDON an amount equal to twenty-five percent (25%) of the estimated VIENNA STORMWATER FEE and HERNDON STORMWATER FEE, respectively, for that fiscal year, rounded to the nearest penny (the "PAID VIENNA REVENUES" and "PAID HERNDON REVENUES").

8. The Parties acknowledge and agree that PAID VIENNA REVENUES and/or PAID HERNDON REVENUES may be more or less than the amount that is actually due and owing to either or both of the Towns, and which amount is calculated at the end of each fiscal year.

9. If the PAID VIENNA REVENUES for a particular fiscal year are determined to have been less than 25% of the actual VIENNA STORMWATER FEE actually collected for that fiscal year, then FAIRFAX shall pay VIENNA the difference between the PAID VIENNA REVENUES and 25% of the VIENNA STORMWATER FEE actually collected for that fiscal year. FAIRFAX shall pay this difference at the same time as it pays the next fiscal year's PAID VIENNA REVENUES.

10. If the PAID HERNDON REVENUES for a particular fiscal year are determined to have been less than 25% of the actual stormwater fee actually collected for that fiscal year in HERNDON, then FAIRFAX shall pay HERNDON the difference between the PAID

HERNDON REVENUES and 25% of the HERNDON STORMWATER FEE actually collected for that fiscal year in HERNDON. FAIRFAX shall pay this difference at the same time as it pays the next fiscal year's PAID HERNDON REVENUES.

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11. If the PAID VIENNA REVENUES for a particular fiscal year are determined to have been more than 25% of the actual VIENNA STORMWATER FEE actually collected for that fiscal year, then FAIRFAX shall deduct the difference between the PAID VIENNA REVENUES and 25% of the VIENNA STORMWATER FEE actually collected for that fiscal year from the amount that FAIRFAX pays for the next fiscal year's PAID VIENNA REVENUES.

12. If the PAID HERNDON REVENUES for a particular fiscal year are determined to have been more than 25% of the actual HERNDON STORMWATER FEE actually collected for that fiscal year, then FAIRFAX shall deduct the difference between the PAID HERNDON REVENUES and 25% of the HERNDON STORMWATER FEE actually collected for that fiscal year from the amount that FAIRFAX pays for the next fiscal year's PAID HERNDON REVENUES.

13. Once FAIRFAX has determined the amount of the actual VIENNA STORMWATER FEE and HERNDON STORMWATER FEE, which shall occur within 90 days of the fiscal year end, FAIRFAX shall forward the respective amounts to the Towns' Mayors in writing ("FINAL ACCOUNTING"). If VIENNA and/or HERNDON disputes the amount of the FINAL ACCOUNTING, then within 30 days of the Mayors' receipt of this FINAL ACCOUNTING, then within 30 days of the Mayors' receipt of this FINAL ACCOUNTING, VIENNA and/or HERNDON, shall state the complete factual basis for any such dispute in writing to the Fairfax County Executive, and the Parties shall endeavor in good faith to resolve any such dispute. Upon the resolution of any such dispute, or if VIENNA and/or HERNDON fails to dispute the amount of the FINAL ACCOUNTING within 30 days of either Mayor's receipt thereof, then VIENNA and/or HERNDON shall be deemed to have accepted payment of the respective fiscal year's PAID VIENNA REVENUES or PAID HERNDON REVENUES, which shall result in the waiver of any right to request from FAIRFAX any additional amount of the collected STORMWATER FEE REVENUES. VIENNA's and/or HERNDON's waiver of any such balance, however, is conditioned upon FAIRFAX's obligations to VIENNA and/or HERNDON pursuant to this Agreement.

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14. Pursuant to Va. Code Ann. § 15.2-2403.3 VIENNA and HERNDON shall expend the PAID VIENNA REVENUES and PAID HERNDON REVENUES, respectively, only for costs directly related to the Towns' stormwater systems and not for non-stormwater-system costs, such as public safety, schools, or road maintenance.

15. Under this Agreement, neither VIENNA nor HERNDON is required to expend any of the paid revenues within any specific amount of time. This Agreement does not affect any other authority that VIENNA or HERNDON might have to carry over revenues from year-toyear or to expend revenues in one fiscal year when the revenues were collected in a previous fiscal year.

16. If, at any time in the future, either VIENNA or HERNDON becomes unincorporated or ceases to qualify to receive paid revenues for any reason or terminates its stormwater program or ceases to maintain its stormwater systems, none of the previously paid revenues shall be expended for anything other than the maintenance, operation, and improvement of such Town's stormwater systems. If any such amounts are returned to FAIRFAX they may be used for other qualified uses in the Service District as FAIRFAX, or its designee, in its or his sole discretion, deems appropriate.

#### TMDL COMPLIANCE AND THE TMDL ADVISORY COMMITTEE

17. Fairfax, Vienna, and Herndon agree that Fairfax will implement stormwater management practices throughout the County and in the Towns sufficient to achieve the TMDL pollutant load reduction requirements that are incorporated into each Party's respective current and future MS4 permit.

18. A TMDL Compliance Advisory Committee (hereinafter referred to as the "Advisory Committee") shall be established and shall be comprised of one or more representatives from each governing body.

19. Regardless of the number of representatives appointed by each governing body, each locality will have one vote on the Advisory Committee.

20. The Advisory Committee shall:

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- a. establish, pursuant to each Party's respective MS4 permit, the nitrogen, phosphorus, and sediment (referred to as "pollutants of concern" or "POCs") load reductions necessary for each individual Party to achieve full compliance with the Chesapeake Bay TMDL and the WIP (referred to herein as "the Chesapeake Bay TMDL Endpoint").
- b. establish the "TOTAL POLLUTANT REDUCTION," which is the total amount of each POC that the Parties must reduce in order to reach the Chesapeake Bay TMDL Endpoint.
- c. establish the percentage of the TOTAL POLLUTANT REDUCTION for which each locality is responsible. That percentage assigned to each Party shall hereinafter be referred to, respectively, as the "FAIRFAX PERCENTAGE,"
  "VIENNA PERCENTAGE," and "HERNDON PERCENTAGE."

d. as determined by the Advisory Committee, the FAIRFAX PERCENTAGE, VIENNA PERCENTAGE, and the HERNDON PERCENTAGE may be established for each POC, an average of POCs, or by another mutually agreed upon methodology that will allocate pollutant reduction credits for projects completed under this Agreement as provided for in paragraph 27 below, in a manner necessary to meet the Chesapeake Bay TMDL Endpoint.

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e. establish a watershed-specific FAIRFAX PERCENTAGE, VIENNA
 PERCENTAGE, and HERNDON PERCENTAGE to allocate pollutant reduction
 credits for projects implemented within a watershed to meet a non-Chesapeake
 Bay TMDL Endpoint.

21. VIENNA and HERNDON may at any time provide FAIRFAX with a list of stormwater management projects to be considered for implementation. Before submitting any such project, the submitting Town must thoroughly investigate and analyze each project to ensure that any such project is feasible. Any project submitted before June 30 of each year will be considered by FAIRFAX for implementation during the following fiscal year. If a project is not implemented, it will continue to be considered for implementation in subsequent fiscal years until such time that the project is determined to be infeasible. Selection of projects for implementation and determination of final feasibility are at the sole discretion of the Director of the Fairfax County Department of Public Works and Environmental Services ("Director").

22. By April 1 of each year, the Director will send to the Towns of VIENNA and HERNDON and/or their designees a proposed list of projects within their jurisdiction.

23. Within 30 days after each Mayors' receipt of this list, the Towns shall provide comments and suggestions regarding each project, its timing, and its costs for implementation,

lifetime maintenance, and replacement. If the Towns provide any comments or suggestions, the Director shall fully consider any such comments, and may, but shall not be obligated to implement or adhere to them. In the event that a dispute exists regarding implementation of any project on the list sent by the Director, the Director and the disputing Town shall endeavor in good faith to resolve any such dispute, but final authority for the implementation of any such projects rests solely with Fairfax County and the Director.

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24. FAIRFAX will pay for the development of the updated Chesapeake Bay TMDL Action Plan for each Town that is due at the beginning of each new MS4 permit cycle. Each Town will be responsible for routine annual updates as required in the MS4 permits. FAIRFAX will also pay for the initial development of other TMDL action plans necessary for compliance with each Town's MS4 permit and any substantial updates to these action plans required in future permit cycles. The action plans will include all information necessary to demonstrate compliance with MS4 permit requirements. Changes or additions to projects identified in the action plans will be reported to each Town annually in accordance with paragraph 31.

25. FAIRFAX shall be solely responsible for implementing projects under this Agreement, excluding the acquisition of any permanent or temporary land rights necessary to construct and maintain a project located within a Town. The Parties may, as necessary, have agreements that are separate from this Agreement that address the Parties' responsibilities over specific projects, facilities, and other funding.

26. A project is subject to this Agreement if it is funded in whole or in part by the Service District Fee and substantially completed on or after July 1, 2009.

27. For each project substantially completed under this Agreement on or after July 1, 2009, whether the project or facility is located within VIENNA, HERNDON, or elsewhere

within Fairfax County, the Parties will receive a pollutant reduction credit for each POC. The reduction credit is determined by applying the VIENNA PERCENTAGE and the HERNDON PERCENTAGE to the estimated total POC load reductions for each project that is substantially completed pursuant to this Agreement (the "VIENNA CREDIT," "HERNDON CREDIT," "FAIRFAX CREDIT," and collectively "REDUCTION CREDITS"). For completed projects and facilities, the REDUCTION CREDITS shall survive any termination of this Agreement unless otherwise agreed to by the Parties or in the event that a constructed facility or improvement is not maintained in accordance with paragraph 28 of this Agreement.

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28. The Party in whose jurisdiction any stormwater management facility or improvement is constructed under this Agreement shall ensure that the long-term maintenance of such facility or improvement is performed as necessary to maintain the functionality and performance thereof. Each party shall ensure long-term maintenance in accordance with Va. Code Ann. § 62.1-44.15.15:27(E)(2) and 9 Va. Admin. Code §§ 25-870-58 and 112. In the event that a Party's failure to maintain a project completed under this Agreement results in a decrease in the amount of POCs removed therefrom, as determined by DEQ, then that Party shall, at its sole cost, maintain or improve the facility to restore the facility to its original functionality.

29. In the event that a Party is unable to meet its load reduction requirement for a specific reporting period, and another Party has exceeded its load reduction requirement, the Director may, with written notification to the Parties, transfer credit from shared credit projects among Parties in a manner to ensure that each Party is able to meet its load reduction requirement. Any such transfer shall be temporary and last only as long as it is needed to address the immediate shortfall. Further, no transfer will occur or stay in force that would result in a donating Party being in non-compliance with an MS4 permit condition.

30. Any Party that completes a stormwater management project from funds not generated by or transferred through Fairfax County shall be entitled to claim all resulting load reduction credits for purposes of satisfying its MS4 permit requirements.

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31. FAIRFAX will prepare an annual report that details the activities performed under this Agreement. The report will provide sufficient detail so that each locality may use it to meet their respective MS4 permit reporting obligations to DEQ. Fairfax will provide the report annually no later than one month before the date the annual report is due to DEQ.

#### STAFF TRAINING

32. Without any additional invitation or payment, VIENNA's and/or HERNDON's staff may attend MS4 permit-related training programs that are conducted or hosted by FAIRFAX. FAIRFAX will provide VIENNA and HERNDON with at least one-month's advance notice of such training opportunities.

#### TERMINATION

33. Any Party may terminate this Agreement by resolution of that Party's governing body. Any such resolution shall be at a public meeting with notice in writing to the nonterminating Parties. Notice shall be made at least three weeks in advance of any such meeting to the Mayor(s) or, as applicable, the County Executive, of Fairfax County. After adoption of any such resolution, the terminating Party shall notify the remaining Parties. The termination shall be effective no earlier than the end of the fiscal year in which the governing body's vote for the resolution for the termination occurs.

34. If this Agreement is terminated by any party other than FAIRFAX, the Agreement shall remain in force as to the remaining parties. The terminating Town shall have responsibility to maintain and replace, as necessary, any facility constructed under this Agreement that is

located within its boundaries and shall assume all liability for such facility. Unless otherwise agreed to by the Parties, neither Town shall have any liability or responsibility for any facility that is located outside of its jurisdictional boundaries and was developed and implemented under this Agreement.

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#### ADDITIONAL PROVISIONS

35. This Agreement is integrated and contains all provisions of the Agreement between the Parties.

36. In the event of a conflict between any term(s) of this Agreement and either of the Parties' MS4 permits or other permit requirements, either Party's respective permit provision(s), shall control.

37. Any provision or term of this Agreement may be modified only by a writing that is approved by resolution at a public meeting of each of the localities' respective governing bodies.

38. This Agreement shall be binding on the Parties' respective agencies, employees, agents, and successors-in-interests.

39. This Agreement shall not be assigned by either of the Parties unless both of the Parties agree to such an assignment in writing.

40. Nothing in this Agreement otherwise limits the respective regulatory and police powers of the Parties.

41. The Parties agree that nothing in this Agreement creates a third-party beneficiary. The Parties also agree that this Agreement does not confer any standing or right to sue or to enforce any provision of this Agreement or any other right or benefit to any person who is not a

party to this Agreement, including but not limited to a citizen, resident, private entity, or local, state, or federal governmental or public body.

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42. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one in the same Agreement.

43. This Agreement shall be governed by Virginia law, and any litigation relating to this Agreement shall be brought and/or maintained only in the Circuit Court of Fairfax County, Virginia.

IN WITNESS WHEREOF, the Parties have executed this Agreement, as verified by their signatures below.

#### [Signatures appear on the following pages.]

#### TOWN OF VIENNA

e asiRocio By: 🤇

L'aurie A. DiRocco Mayor Town of Vienna, VA

STATE OF VIRGINIA	:	
	:	to-wit
COUNTY OF FAIRFAX	:	

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The foregoing Agreement was acknowledged before me by Laune A. Di Rocer of the Town of VIENNA, this  $\frac{21^{st}}{21^{st}}$  day of  $\frac{febnuary}{10^{st}}$  2019 on behalf of the Town of VIENNA.

MELANIE J. CLARK NOTARY PUBLIC REGISTRATION # 7290978 COMMONWEALTH OF VIRGINIA MY COMMISSION EXPIRES JUNE 30, 2017	me	laper Clark_ Notary Public
	$\cap$	

My commission expires:  $\sqrt{20.2017}$ Notary Registration Number: 7290976

# TOWN OF HERNDON

By: (Name and Title) Lisa C. Merkel

Mayor

STATE OF VIRGINIA to-wit COUNTY OF FAIRFAX

The foregoing Agreement was acknowledged before me by Lisa C. Merkel of the Town of HERNDON, this 2nd day of March 2017 on behalf of the Town of HERNDON.

Cynthia M. Gurenner Notary Pablic

My commission expires: Notary Registration Number:

> CYNTHIA M. YUREWICZ NOTARY PUBLIC REGISTRATION # 325308 MMONWEALTH OF VIRGINIA MY COMMISSION EXPIRES NOVEMBER 30, 2018

11/30/2018

325308

APPROVED AS TO FORM:

jatts. Lesa J. Yearts

Town Attorney

# BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

By: So Edward L. Long Jr.

County Executive Fairfax County, Virginia

STATE OF VIRGINIA	*	
		to-wit
COUNTY OF FAIRFAX	:	

The foregoing Agreement was acknowledged before me by Elward L Long Dr. of the County Executive, on behalf of the Board of Supervisors of Fairfax County, Virginia this

9th day of March <del>2016</del>. 2017



Allon Manna Comme Notary Public

My commission expires:

March 31, 2019 Notary Registration Number: 7642019

Approved as to form:

Office of the County Attorney Fairfax, Virginia

Fairfax County PCB TMDL Action Plan -Final Submittal to DEQ – March 31, 2017 -

# Appendix B -

# County Properties in MS4 and in Direct Drainage Areas Subject to PCB TMDL -

Fairfax County PCB TMDL Action Plan -Final Submittal to DEQ – March 31, 2017 -

						In MS4	
					YEAR BUILT/	Service	
NAME	Agency	TAX MAP PIN	ADDRESS	CITY	RENOVATED	Area?	NOTES
Clemyjontri Park	Parks and Recreation	0311 01 0011C	6317 GEORGETOWN PI	MC LEAN	2006	5 Y	Park founded in 2006 - house on site constructed in 1912
Crosspointe, Station 41	Public Safety	1061 10 0008A2	8716 OX RD	FAIRFAX STATION	2007	Y Y	
							The facility opened in 1988. Significant renovations took
George Washington RECenter	Parks and Recreation	1014 01 0047A	8426 OLD MOUNT VERNON RD	ALEXANDRIA	2006	5 Y	place to the facility in 2005 and 2006
Grist Mill Dog Park	Animal Services	1101 01 0001	4710 MOUNT VERNON MEMORIAL HY	ALEXANDRIA	N/A	Y	
Gum Springs Community Center	Parks and Recreation	1012 01 0047	8100 FORDSON RD	ALEXANDRIA	1996	5 Y	
							5-year CIP - Library additions minor site plan approved 8-
John Marshall Library	Libraries	0823 12 B	6209 ROSE HILL DR	ALEXANDRIA	2016	5 Y	22-16
Kingstowne, Station 37	Public Safety	1001 01 0016	7936 TELEGRAPH RD	ALEXANDRIA	1996	5 Y	
Laurel Hill Golf Course & Equestrian	Parks and Recreation	1073 01 0019	8701 LAUREL CREST DR	LORTON	2007	Y Y	
Laurel Hill Adaptive Reuse	Public Works	1071 09 A	8900 FURNACE RD	LORTON	N/A	Y	Being redeveloped
Lewinsville Senior Center	Parks and Recreation	0303 01 0042	1609 GREAT FALLS ST	MC LEAN	1961	Υ.	Currently being demolished and reconstructed
McLean Old Firehouse Teen Center	BOS	0302 01 0025	1440 CHAIN BRIDGE RD	MC LEAN	1990	) Y	Built in 1964 and opened as teen center in 1990
McLean, Station 1	Public Safety	0302 09 0022B	1455 LAUGHLIN AV	MC LEAN	1987	Y Y	
Mount Vernon Govt Center	BOS	1021 01 0004	2511 PARKERS LANE	ALEXANDRIA	2003	S Y	Constructed in 1965, Police Station renovated in 2003
Pimmit Hills Senior Center	Parks and Recreation	0401 03 0422A	7510 LISLE AV	FALLS CHURCH	2000	) Y	
Riverwood Pump Station	Public Works	1104 05 F	3700 RIVERWOOD RD	ALEXANDRIA	1993	S Y	
Waynewood II Pump Station	Public Works	1112 06220022C	8712 EAGLEBROOK CT	ALEXANDRIA	1993	S Y	
Little Hunting Creek Pump Station	Public Works	1023 01 0036A	8600 THOMAS J STOCKTON PW	ALEXANDRIA	1994	Υ	
Gunston Commerce Center Pump Station	Public Works	1133 01 0005G	10500 FURNACE RD	LORTON	2007	Y Y	
Seven Corners, Station 28	Public Safety	0513 15 0004	2949 SLEEPY HOLLOW RD	FALLS CHURCH	2000	) Y	On future projects list
Sherwood Regional Library	Libraries	1021 01 0002A	2501 SHERWOOD HALL LA	ALEXANDRIA	2009	) Y	Beyond 5-year CIP
Tysons-Pimmit Regional Library	Libraries	0401010037	7584 LEESBURG PI	FALLS CHURCH	1985	5 Y	
Westgrove Dog Park	Animal Services	0932 01 0006	6801 FORT HUNT RD	ALEXANDRIA	N/A	Y	
							Part of Seven Corners Community Business Center -
Willston Multicultural Center	Parks and Recreation	0513 18 0001	6131 WILLSTON DR	FALLS CHURCH	1952	Y Y	Comprehensive Plan
							Renovation approved as part of the fall 2015 Public
Woodlawn, Station 24	Public Safety	1101 01 0028A	8701 LUKENS LA	ALEXANDRIA	1970	) Y	Safety Bond Referendum
Workhouse Arts Center	Parks and Recreation	1064 01 0058	9518 WORKHOUSE WAY	LORTON	2008	B Y	

# Appendix C

# **Public Comments**

The County's public outreach efforts included an opportunity to comment on the Chesapeake Bay TMDL Action Plan, Benthic TMDL Action Plan, Bacteria TMDL Action Plan, and PCB TMDL Action Plan. This appendix includes comments specific to the PCB TMDL Action Plan and general comments applicable to all of the action plans.

	Public Comment	Commenter	Plan	Reference	County Response	Action Taken
1.	The introductory materials for this action plan seem to do a much better job of explaining the Fairfax County MS4 service area than we found in the other plans (Benthic, PCB, Bacteria). The rules are necessarily complex for determining exactly where the County's responsibilities lie. Perhaps these should be copied by the other plans?	Fairfax County Environmental Quality Advisory Council	All	Chesapeak e Bay Action Plan Section 4.1	The County will incorporate the MS4 Service Area Delineation Methodology section into the benthic, PCB, and bacteria TMDL action plans. It is important to note that the Chesapeake Bay TMDL is the only TMDL that provides Wasteload Allocations (WLAs) specifically to the Fairfax County MS4. The other TMDLs contain WLAs that have been aggregated with other MS4s. The Fairfax County MS4 portion of the aggregated loads has not been determined.	MS4 Service Area Delineation Methodology added to the benthic, PCB, and bacteria TMDL action plans.
2.	Is it standard or required practice for TMDL action plans to present loads to a ridiculous number of significant digits – up to 10? This obviously is an artifact of adding numbers of different magnitudes. For key tables, we suggest rounding to 3 figures.	Fairfax County Environmental Quality Advisory Council	All	N/A	Virginia DEQ Guidance Memo 15-2005, Chesapeake Bay TMDL Special Condition Guidance, Section II.2 requests that localities compute pollutant loads to the nearest hundredth.	No further action required.
3.	In reading the plans, it sometimes was difficult to determine exactly to which water bodies the permits applied. To avoid ambiguity, is it possible to provide an appendix cross-referencing all water bodies to the National Hydrography Dataset (NHD)?	Fairfax County Environmental Quality Advisory Council	Bacteria; Benthic; PCB	N/A	The County uses the same stream terminology used in the TMDLs based on Virginia's 305(b)/303(d) Water Quality Assessment Integrated Report. The "305(b) ID" is used to identify individual impaired water bodies and the impairments associated with each TMDL are listed in Appendix A of the County's MS4 permit, which is available at	Virginia DEQ's "305(b) IDs" added to the tables listing water body names.

# Fairfax County PCB TMDL Action Plan -Final Submittal to DEQ – March 31, 2017 -

	Public Comment	Commenter	Plan	Reference	County Response	Action Taken
					<u>http://www.fairfaxcounty.gov/dpwes/stormwa</u> <u>ter/va0088587-fairfax-permit.pdf</u> . The tables in the action plans have been revised to list these stream segments.	
4.	The TMDL calls for an overall reduction of 54.7 g/yr (74.7%). The evaluation indicates no particular county site or operation is considered a significant source of PCB's. While this itself is good news, any reductions logically would have to focus on private sources of PCB's. The plan provides little information on how private sources will be controlled, other than to mention legal authorities and field staff training. Will this include increased inspections? Will private potential sources be inventoried in detail? Without these or similar measures, it is difficult to see how any reductions would be achieved.	Fairfax County Environmental Quality Advisory Council	PCB	Sections 2.4 and 2.5	Virginia DEQ's Guidance Memo 16-2006, TMDL Action Planning for Local Total Maximum Daily Loads, directs MS4 permittees to assess significant sources of the pollutant of concern from facilities owned or operated by the MS4 permittees that are not covered under a separate VPDES permit. As stated in the comment, this assessment did not identify any County facilities as significant sources of PCBs. The PCB TMDL Action Plan summarizes the County's existing programs in Table 2B, which includes an Industrial and High Risk Runoff (IHRR) program. Through this program, the County inspects industrial and commercial facilities that have the potential to contribute pollutants to the MS4. Virginia DEQ's 2016 document titled "The Relationship between Polychlorinated Biphenyls (PCBs), VPDES Wastewater/Stormwater Facilities, Stormwater Industrial General Permitted Facilities (ISWGPs), and the Standard Industrial Classification System (SIC)" identifies specific SIC codes that are more likely to be associated with the presence of PCBs. These SIC codes will be included in the process of identifying IHRR facilities for inspection.	Additional text added to Table 2B describing the addition of SIC codes associated with PCBs to the process of identifying IHRR facilities for inspection.
5.	Implement all of the watershed plans;	Friends of Dyke Marsh	All	N/A	The County is actively implementing the watershed management plans designed to cover each of the County's 30 watersheds. Potential projects identified in these plans are implemented based on an evaluation of project feasibility and cost/benefit analysis. For a list of projects implemented by watershed visit:	No further action required.

# Fairfax County PCB TMDL Action Plan -Final Submittal to DEQ – March 31, 2017 -

	Public Comment	Commenter	Plan	Reference	County Response	Action Taken
					http://www.fairfaxcounty.gov/dpwes/stormwa ter/projects/project_list.htm	
6.	Create an aggressive public outreach program to discourage large grassy areas and use of fertilizers and lawn chemicals, to encourage people to create more native and natural habitat;	Friends of Dyke Marsh	All	N/A	The County promotes and publicizes the proper use, application, and disposal of pesticides, herbicides, and fertilizers per Section I.B.2.j)1)(h) of the MS4 permit. The County partners with the NVSWCD to promote individual and group involvement in local water quality improvement initiatives and encourage private property owners to implement voluntary stormwater management techniques and/or retrofits in accordance with sections I.B.2.j)1)(b) and (i) of the MS4 permit. One such program is the Home Turf program, a Virginia Healthy Lawns program that provides assistance for homeowners to determine just what their lawn needs to be as healthy as possible (see <u>www.fairfaxgardening.org/home-turf/</u> ). Efforts are being made to raise awareness of our collective impact on the environment and to change behaviors, but it is important to note that this kind of cultural change takes time.	No further action required.