

Resolution No.: 19-1423  
Introduced: June 14, 2022  
Adopted: October 25, 2022

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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Lead Sponsor: County Council

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**SUBJECT:** Ten-Year Comprehensive Water Supply and Sewerage Systems Plan, 2022-2031

**Background**

1. Section 9-501 et seq. of the Health-Environmental Article of the Maryland Code requires the governing body of each county to adopt and submit to the State Department of the Environment a comprehensive County Plan, and on a triennial basis comprehensively review its Plan.
2. In accordance with the State law on December 30, 1969, by Resolution No. 6-2563, the County Council adopted a Comprehensive Ten-Year Water Supply and Sewerage Systems Plan, which was approved by the State Department of the Environment.
3. The County Council has from time to time amended the Plan.
4. On June 2, 2022, the County Executive submitted the Recommended Montgomery County 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan.
5. Recommendations on the 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan were solicited from the Maryland-National Capital Park and Planning Commission, Washington Suburban Sanitary Commission staff, and affected municipalities.
6. A public hearing was held on July 12, 2022.
7. The Transportation and Environment Committee held worksessions on September 12, 2022 and October 3, 2022.
8. The County Council held a worksession on October 18, 2022.

**Action**

The County Council for Montgomery County, Maryland approves the following resolution:

The County Executive's Recommended Montgomery County 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan is approved with the following changes, as shown in the attachments to this resolution.

This is a correct copy of Council action.

  
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Judy Rupp  
Clerk of the Council

**Approved 2022 – 2031 Water and Sewer Plan: Summary Table of Text Revisions**

In preparing the final version of the Approved 2022 – 2031 Water and Sewer Plan, the Montgomery County Department of Environmental Protection (DEP) made numerous revisions and updates to the June 2022 draft Plan text, as transmitted by the County Executive. Many of these changes were minor in nature, including editing corrections and minor wording revisions. In addition, DEP updated several of the GIS-generated map appearing throughout the text. The following table provides a summary of the more significant policy and other major revisions to the Executive's draft text.

<b>APPROVED 2022 – 2031 COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN Revisions to the County Executive's Recommended June 2022 Draft Plan</b>		
<b>Section/Figure/Table Revised*</b>	<b>Initiated By</b>	<b>Revision</b>
<b>EXECUTIVE SUMMARY</b>		
(pgs. ES-1 to ES-8)	DEP	Revised the Executive Summary, as needed, to reflect other changes in the Plan text (as identified below)
<b>CHAPTER 1: OBJECTIVES AND POLICIES</b>		
Section I.E.3.a. Washington Suburban Sanitary Commission (pg. 1-13)	Washington Suburban Sanitary Commission (WSSC Water)	Expanded the discussion of WSSC Water's role in the category change amendment process.
Section II.G.3.: Community Service for Properties Abutting Community System Mains (pg. 1-37)	County Council	In the text under <u>Technical Feasibility</u> , concerning new main extensions to existing abutting mains. Added that confronting properties eligible for community service from the main extension must be either improved or a recorded building lot.
Section II.G.3.c.: Transfer of an Abutting Mains Single Service Connection Qualification (pg. 1-40)	Transportation and Environment (T&E) Committee	Added new text under the abutting mains policy that allows, under strictly limited circumstances, the transfer of an abutting mains connection right from one qualifying property to another adjacent, commonly owned, ineligible property.
Section II.G.5.: Community Service for Commercial Land Uses (pg.1-45)	T&E Committee	Added a new section that addresses the provision of community service for commercial land uses located outside of the planned community water and sewer envelopes.
Section IV.A.2.c.: Efforts to Address Underserved and Unserved Communities (pg. )	County Council	Updated the discussion of the <u>Unserved and Underserved Subgroup</u> to include recent efforts to move the program forward, including the subgroup's final report, a general implementation plan, and presentations to WSSC Water Commissioners and elected officials from both Counties.
Section V.D: Review and Consideration of Plan Amendments (pg. 1-73)	WSSC Water & DEP	Expanded the discussion of the roles that the reviewing agencies play in the category change amendment review process.
<b>CHAPTER 2: GENERAL BACKGROUND</b>		
II.E.5.d Montgomery County's MS4 Permit (Page 2-17)	DEP	- Updated the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System Permit Program (AKA the MS4 Permit Program).
<b>CHAPTER 3: WATER SUPPLY SYSTEMS</b>		
Section II.C.2: Regional Drought Operations (Page 3-14)	WSSC Water	Updated the text to reflect revised operations rules and procedures for reducing the impacts of severe droughts in the Potomac River for the Washington Metropolitan Area Water Suppliers.
Plan Recommendation: Potential Use of Travilah Quarry for Additional Raw Water Storage (Page 3-19)	WSSC Water, DEP	Updated language on Plan Recommendation for Potential Use of Travilah Quarry for Additional Raw Water Storage
<b>CHAPTER 4: SEWERAGE SYSTEMS</b>		
Note: No substantive revisions to the County Executive's draft.		

**Approved 2022 – 2031 Water and Sewer Plan: Summary Table of Text Revisions**

<b>APPENDIX A: GLOSSARY</b>		
Note: No substantive revisions to the County Executive's draft.		
<b>APPENDIX B: MULTIUSE SYSTEMS</b>		
Note: No substantive revisions to the County Executive's draft.		
<b>APPENDIX C: EXCEPTIONAL SERVICE POLICIES AND RECOMMENDATIONS</b>		
Section II.N. RIVERWOOD DRIVE (pg. C-18 & Fig. C-F14)	County Council	Reduced the area proposed for removal from the Riverwood Drive restricted sewer service area. Part of the Potomac Manor Section 2 subdivision that currently lacks access to community sewer service will also remain in the restricted sewer service area. Made minor text changes to conform with this change.
<b>APPENDIX D: AGENCIES</b>		
Note: No substantive revisions to the County Executive's draft.		
<b>APPENDIX E: MAJOR FACILITIES AND INSTITUTIONS</b>		
Note: No substantive revisions to the County Executive's draft.		
<b>APPENDIX F: SUMMARY OF CHANGES</b>		
(pgs. F-1 – F-20)	DEP	Revised the appendix, as needed, to reflect other changes in the Plan text (as previously identified)

**Approved 2022 – 2031 Water and Sewer Plan: Substantive Revisions to the Executive Draft Plan**

[Bracketed Text] = Approved Deletions

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((Notes))

**EXECUTIVE SUMMARY**

*((The following text revisions cited in the Executive Summary were included to reflect revisions elsewhere in the Plan text.))*

**CHAPTER 1 Section**

**II.G. Special Policies for Water and Sewer Service**

**II.G.3.: Community Service for Properties Abutting Community System Mains**

**II.G.3.a.: General Requirements**

((Page ES-2))

**II.G.3.c.: Transfer of an Abutting Mains Single Service Connection Qualification**

The text addresses the transfer of an abutting mains connection “right” from one eligible property to another, commonly owned, ineligible property under strictly limited conditions. The policy was previously silent concerning the acceptability of such an action. Among other requirements, the two properties must be adjacent to each other, and both must abut a qualifying water or sewer main. The property donating the connection right surrenders the connection right then becomes ineligible for the abutting mains service connection.

((Page ES-3))

**II.G.5.: Community Service for Commercial Land Uses**

This policy addresses the provision of community water and/or sewer service for properties with commercial land uses located outside the planned community service envelopes. The requirements for community service under this new policy closely mirror those of the private institutional facilities policy. Exceptions are that the commercial uses qualifying for community service do not need to be tax-exempt under the U.S. I.R.S. code and they cannot be located within the Rural and Rural Cluster Zones, in addition to the Agricultural Reserve Zone.

((Pages ES2- - ES 4))

**IV.A.2.c.: [Replacing the WSSC-Built Extension Program] Efforts to Address Underserved and Unserved Communities**

Reworked this section, focusing more on the current work of the Unserved and Underserved Communities subgroup. The subgroup is investigating improved means of providing public service main extensions to neighborhoods planned for public service but that lack access to existing mains. [The subgroup’s report is being finalized.] The subgroup’s report has been finalized, and along with a procedural and financial implementation plan, has been presented to elected officials in both Montgomery and Prince George’s Counties. WSSC-Water has drafted State legislation for a flat fee charge for proposed partial financing.

((Page ES-4))

**V.D: Review and Consideration of Plan Amendments**

Added text that expands the discussion of the primary reviewing agencies for service area category change requests and those agencies’ responsibilities in the process.

((Page ES-7))

**Appendix C**

**II.N. RIVERWOOD DRIVE**

Service Recommendation & Comments: Explained that this restricted sewer service area is substantially larger than is necessary. Many parts of the restricted service area already have community sewer service. [In other areas, the technical limitations of extending sewer service across the cut for Sandy Landing Rd., 100 feet deep in some parts, makes such extensions impractical. The only areas that need to remain within the restricted sewer service area are Carrs Addition and Fox Meadow.] The areas excluded from the original restricted sewer service area are those with existing or direct access to community sewer service. The accompanying figure has been modified to match.

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**CHAPTER 1****I.E.3.a.: Washington Suburban Sanitary Commission (WSSC Water, WSSC)**

((Page 1-13))

((Text added to clarify WSSC-Water's role in the category change review process.))

...

WSSC Water provides data and guidance to the Executive pertaining to capacity of the water supply and sewerage systems and to engineering and fiscal aspects of system expansion. WSSC Water's functions also include reviewing and commenting on the Recommended Comprehensive Water Supply and Sewerage Systems Plan and on proposed amendments, including water and sewer service area category change requests. For category change requests, WSSC Water addresses the technical feasibility of new community service, including system transmission and treatment capacities.

**II.G.3.: Community Service for Properties Abutting Community System Mains****II.G.3.a.: General Requirements**Technical Feasibility of Service Connections ((underscored as in the text, not added language))

((Page 1-37))

((Text added to clarify which confronting properties, that abut new main extensions, can receive service connections from those mains. The intent is to not allow these main extensions to promote unapproved development.))

...

The requested main extension may offer abutting mains connections to other confronting properties provided that they are only improved properties or recorded building lots. These confronting properties must be served from the extended main; no additional extensions are allowed. DEP may grant an exception to this limitation in cases where an extension is needed for the relief of a failed onsite system. In cases where a service area category change is needed for a confronting property, the category change is not suitable for an advance action (see Section II.G.3.e.). The confronting properties will carry a notice that disallows any similar, additional main extensions. As with the general provisions of this abutting mains policy, a property newly abutting a new main extension is limited to a single service connection from the new main. Further, in such cases, the additional subdivision of the newly abutting property based on the provision of an abutting service connection is not allowed. Service connections from the extended main to other newly abutting properties must be direct connections from the main. Non-abutting service connections are not allowed in these cases.

**II.G.3.: Community Service for Properties Abutting Community System Mains****II.G.3.c.: Transfer of an Abutting Mains Single Service Connection Qualification** ((Page 1-40))

((A new policy added at the direction of the T&amp;E Committee to allow a "connection right" under the abutting mains policy to transfer from a qualifying property to an adjacent, co-owned property that does not qualify for an abutting mains connection.))

The transfer of an available abutting mains service connection "right" from a qualifying property to another property that does not qualify for a connection right may be considered under this policy on a case-by-case basis. The approval of such a transfer of a service connection right will require that DEP make the following findings during a category change review process:

- Both properties must abut the water or sewer main with the donating property confirmed by DEP to be eligible for a single connection via the abutting mains policy.
- Both properties must be contiguous (i.e. share a property boundary).
- Both properties must be under common ownership.
- If improved, the property with the existing abutting mains connection right must have a fully functioning septic system that satisfies all current septic system permitting requirements.

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including an established septic reserve area, under State and County law as verified by the Department of Permitting Services.

- The property donating the existing abutting mains connection right will no longer be eligible for public service through the abutting mains policy.
- Approval of the connection right transfer will be conditioned upon Planning Board confirmation of the receiving property as a building lot.

Provided that DEP determines that preceding requirements are satisfied, a service area category change may be approved through the administrative delegation process.

**II.G.5.: Community Service for Commercial Land Uses**

((Page 1-45))

*((A new policy added at the direction of the T&E Committee to allow for the limited provision of community service for properties with commercial uses located outside the planned community service envelopes.))*

This policy addresses the provision of community water and sewer service for commercial land uses located outside the planned community service envelopes. This is to help support commercial service (such as grocery and convenience stores, medical offices, and day-care facilities) in lower-density areas of the county where residents may otherwise have to travel many miles to avail themselves of these services. Properties eligible for consideration for community service are those with existing or proposed commercial uses as defined in the Montgomery County Zoning Ordinance.

The provisions of this commercial uses service policy (allowances, restrictions, procedural requirements) parallel those established in the Private Institutional Facilities (PIF) policy (see II.G.4, preceding), with the following exceptions:

- The commercial uses considered under this policy do not have to qualify as tax-exempt under Section 501 of Title 26 of the United States Code (Internal Revenue Service).
- Neither community water nor sewer service shall be used to support existing or proposed commercial uses within the Agricultural Reserve (AR), Rural (R), and Rural Cluster (RC) Zones.
- Water and sewer main extensions for these properties are required to stay within public rights of way and avoid sensitive environmental features such as streams and forests.
- Properties with residential structures converted or proposed to be converted to a commercial use may be considered for community service.

Properties that have submitted category changer requests for community service for an existing or proposed commercial use prior to the approval of this policy are not required to submit a concept plan for consideration by the Development Review Committee.

**IV.A.: Washington Suburban Sanitary District****IV.A.2.: Local Service Extension Programs****IV.A.2.c.: Efforts to Address Underserved and Unserved Communities**

((Pages 1-67 – 1-68))

Unserved and Underserved Subgroup of the Bi-County Infrastructure Financing Committee ((underscored as in the text, not added language))

*((A revision to update the status of the program since the preparation of the Executive draft Plan.))*

Following the preparation of the 2014 subdistricts report, the effort to create a new extension financing system stagnated for several years. In late 2018 a new WSSC Water and bi-county working group formed to reexamine the unserved and underserved (U&U) communities issue. There was a concern that the prior subdistrict proposal would still result in unaffordable costs for new community service. This working group focused more closely on the financing issue, looking for alternate revenue sources to help offset the high costs of new main extensions. Several proposals are currently under consideration, including

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rate payer subsidies from WSSC Water, subsidies from County property tax revenues, and State grants and low-interest loans. However, in ongoing discussions the working group members have recognized that the subdistrict concept may still have value in organizing service extension locations and specific projects. [The workgroup will present its findings to WSSC Water and the governing bodies of the two counties when finalized.]

The workgroup has also developed a general implementation plan for this extension concept that includes a proposed financing system for the proposed main extensions. Implementation would divide financial responsibilities for new main extensions between affected property owners, the Counties, and WSSC-Water. State and Federal funding would also be pursued, as available. The workgroup presented its findings to WSSC Water Commissioners, both County Executives, the Princes George's County Council, and the Montgomery County Council Transportation and Environment Committee, receiving support to move forward with its proposals from each.

**V.D: Review and Consideration of Plan Amendments**

((Page 1-73))

*((Text added to clarify the roles of the reviewing agencies in the category change request review process.))*

Two primary pathways are used to consider and act on Plan amendments: the County Council's legislative review process and DEP's administrative delegation review process. For amendments requiring interagency review, DEP collects requests on a quarterly basis, with collection periods closing at the end of September, December, March and June of each fiscal year. DEP transmits packets of requested amendments to the [reviewing] agencies in the month following the close of each quarterly group. Agencies typically have 30 days to provide comments back to DEP. The reviewing agencies typically include the following:

- DPS, for issues concerning individual onsite systems and onsite system suitability.
- M-NCPPC, for issues concerning master plans and land use planning
- WSSC-Water, for issues concerning the feasibility of providing community water and sewer service, including system transmission and treatment capacities. WSSC-Water also advises DEP whether there are technical or policy issues that would complicate the provision of community service or that would make community service infeasible.
- Municipalities, on a case-by-case basis, for issues concerning local planning and infrastructure.

**CHAPTER 2****II.E. Water Resources:****II.E.5. Water Quality Programs:**

((Pages 2-16 - 2-17))

*((Updated the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System Permit Program (AKA the MS4 Permit Program)).*

**II.E.5.d Montgomery County's MS4 Permit:**

The Department of Environmental Protection is the lead department coordinating the County's multi-department/agency response to meet the requirements of the MS4 Permit. The permit is a key driver of the County's strategic watershed management program. The MS4 Permits are issued for a five-year cycle. [The County's current MS4 Permit was issued on February 16, 2010 and expired on February 15, 2015. Until a new permit is issued, MDE administratively continues the County's 2010 permit. When a permit is administratively continued, all the terms and conditions of the existing permit remain fully effective and enforceable.] The County's current MS4 Permit was issued on November 5, 2021, by the Maryland Department of the Environment and expires on November 4, 2026. During the permit term, the County is required to:



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- By November 4, 2026, the County shall complete the restoration of 1,814 impervious acres that have not been treated to the maximum extent practicable by implementing stormwater BMPs, programmatic initiatives, or alternative control practices in accordance with the 2021 Accounting Guidance
- Show progress toward meeting the Total Maximum Daily Loads (TMDLs) Wasteload Allocations (WLAs) approved by the U.S. Environmental Protection Agency (EPA).
- Reduce trash and litter county-wide.
- Develop and implement a public outreach and education program that focuses on reducing stormwater pollution and litter
- Conduct preventive maintenance inspections of all Stormwater management facilities
- Implement laws and programs to reduce stormwater and pollution
- Submit annual progress reports to MDE.

*((The remaining four paragraphs in this section were deleted from the text.))*

**CHAPTER 3****II.C: Water Supply Sources Programs and Policies:****II.C.2: Regional Drought Operations:**

*((Pages 3-14 – 3-15))*

*((Updated the text to reflect revised operations rules and procedures for reducing the impacts of severe droughts in the Potomac River for the Washington Metropolitan Area Water Suppliers))*

...

In response to the 2015 Water Supply study, the CO-OP utilities funded a follow-up study by Montgomery County Comprehensive Water Supply and Sewerage Systems Plan Chapter 3: Water Supply Systems Executive Draft 2022-2031 Plan Page 3-15 the ICPRB to identify and evaluate water supply strategies to meet future challenges of growing regional demand for water including consideration of potential impacts of climate change on water resources. This study, completed in 2017, considered structural measures to add water supply capacity to meet the future regional need and operational changes to optimize the existing resources. Structural alternatives included the future potential future use of quarries in Maryland and Northern Virginia for raw water storage. Operational strategies included expanded coordinated operation of existing and planned water supply facilities and improved flow forecast models for the Potomac River. The work effort to explore and obtain Federal Funding assistance and the general planning effort is underway by WSSC Water and other COOP utilities for implementing the recommendations of the 2017 study.

Subsequently, the ICPRB published the 2020 WMA Water Supply study in September 2020. The study reaffirmed the need for supplemental storage to mitigate drought flows in the Potomac River stating, "Under all the 2040 Lower Flow scenarios, the addition of Travilah Quarry is necessary to avoid system failure in a severe drought." Beyond 2040 the benefits of the additional raw water storage from quarries remain but further population growth and potential impacts from climate change on flows on the Potomac and Patuxent Rivers may require that additional storage or other practices be implemented in the future. The impacts of climate change will continue to be evaluated as more information is available to gage the impacts of climate change on hydrology.

As a result of the above regional planning efforts and recommendations, in Fiscal Year 2021, WSSC Water created a new CIP project entitled the Regional Water Supply Resiliency Project, which includes planning, preliminary engineering, community outreach, and coordination with elected officials for a regional raw water supply reservoir and raw water conveyance system to serve the long-range water supply needs of the Washington metropolitan region. The outcome of this work would better define the scope, budget and schedule of the project. This project was adopted by Montgomery and Prince George's Counties during the FY2021 CIP budget approval process. The capital project is contingent upon funding assistance and will proceed only if all other funding solicitation efforts by other agencies are not successful. Subsequently,

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the work effort to explore and obtain Federal Funding assistance and to perform the general planning effort began soon afterwards by the ICPRB, WSSC Water, and other CO-OP utilities.

In August 2021 an application for federal funding assistance under the Water Resource Development Act (WRDA) 7001 process was submitted for the completion of a Feasibility Study to further evaluate and support the recommendation of the regional planning efforts. If authorized and appropriated, this work, which will be completed by the U.S. Army Corps of Engineers, will be the first step of many that will be required in the WRDA program to eventually obtain the remaining Federal Funding assistance required to execute the project. In the 2022 USACE Report to Congress on Future Water Resource Development the Metropolitan Washington Region was identified as eligible for authorization of a feasibility study under the WRDA program. In addition, the U.S. House of Representatives included authorization for a study in its version of WRDA 2022 (H.R. 7776), which passed the lower chamber on June 8, 2022. As of June 30, 2022, the Senate has yet to its version of WRDA 2022 and efforts are underway to lobby the relevant members of Congress. Once the WRDA 2022 is passed by both the House and Senate and signed by the President, then it will need to be appropriated. Appropriations could occur either under an FY23 or FY24 spending bill or in a possible reconciliation package.

**Plan Recommendation: Potential Use of Travilah Quarry for Additional Raw Water Storage**

((Page 3-19))

*((Updated language on Plan Recommendation for Potential Use of Travilah Quarry for Additional Raw Water Storage))*

[This Plan recommends a more comprehensive re-evaluation of the potential benefits to the regional and WSSC Water's water supply systems. Travilah Quarry is located within several miles of the Potomac Water Filtration Plant and could provide at least 7.5 billion gallons of raw water storage. This quarry has been evaluated by WSSC Water for several years and this Plan, along with the Potomac Subregion Master Plan encourages actions be taken to ensure its future availability to the water supply needs of the WSSC Water service area and the Washington Metropolitan Region.]

This Plan recommends acquisition of Federal Funding assistance to validate the previous planning studies in accordance with the Water Resource Development Act (WRDA) 7001 process as the first step in obtaining funding authorization from the U.S. Congress for the overall project. After the necessary funding is in place for subsequent phases of work, the goal is to ultimately develop an additional emergency raw water supply that would benefit not only WSSC Water customers but also much of the Washington Metropolitan Region. Once complete, this project will convert a quarry located within close proximity to the Potomac Water Filtration Plant into an approximate 7.8-billion-gallon water supply facility. This quarry has been evaluated by WSSC Water and the Interstate Commission on the Potomac River Basin for several years and this Plan, encourages actions be taken to ensure its future availability to the water supply needs of the WSSC Water service area and the Washington Metropolitan Region.

**APPENDIX C****II.N. RIVERWOOD DRIVE**

(Pages C-18 – C-19 &amp; Figure C-F14)

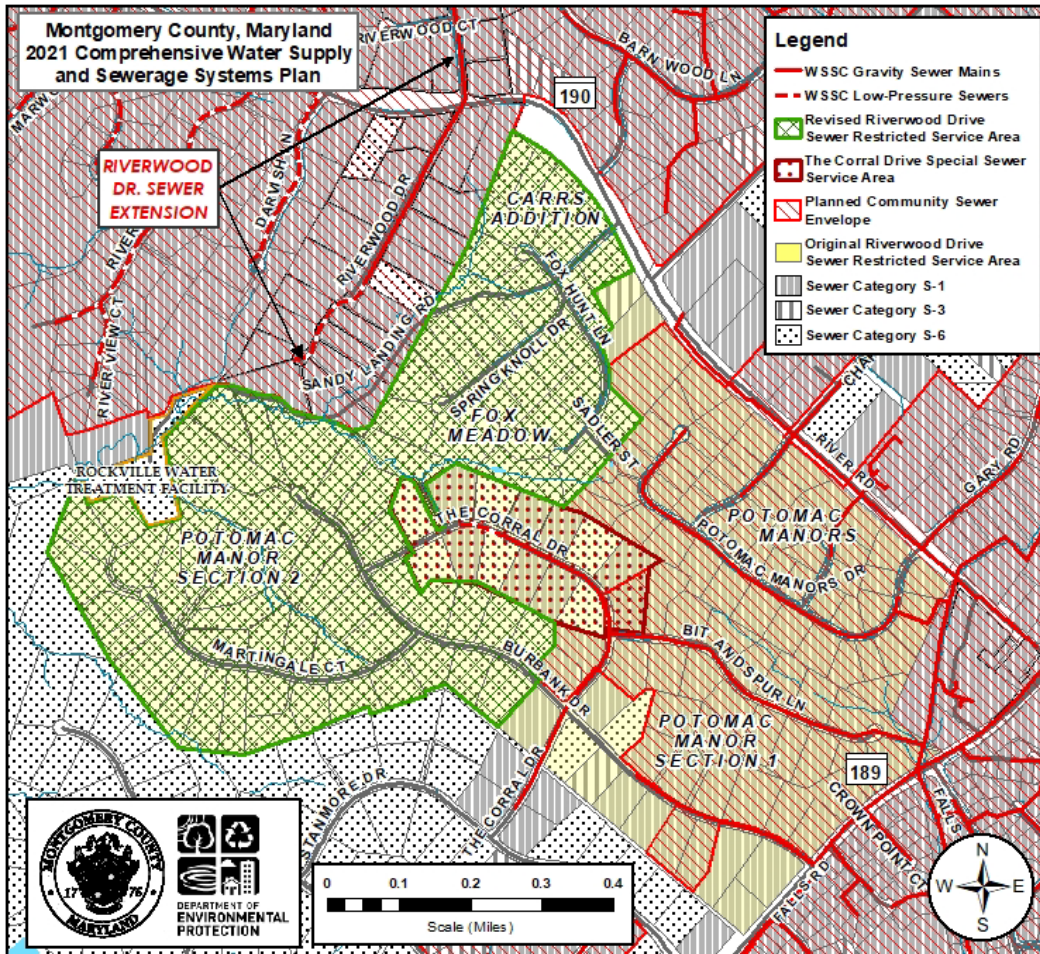
*((The area proposed for removal from the restricted sewer service area was revised at the recommendation of County Council staff. This left most of the Potomac Manor Section 2 subdivision in the restricted sewer service area in addition to the other two subdivisions.))*

...

DEP's recent review of this restricted sewer service area revealed that it is more extensive than is needed to limit sewer service from the Riverwood Dr. sewer main extension south of River Rd. Much of the original restricted service area already has community sewer service. Other areas in Potomac Manor are not reasonably accessible due to the steep stream valley along Sandy Landing Rd. Except where community service is required to relieve public health problems, the Riverwood Drive sewer main, and potential future extensions from that main, are restricted from serving the following subdivisions: Fox Meadow, [and] Carrs Addition, and part of Potomac Manor Section 2 as shown on Figure C-F14.

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**Figure C-F14: Riverwood Drive Sewer Restricted Service Area**  
((The following figure replaced the original figure provided in the Executive’s draft Plan))



**APPENDIX F**

((The following text revisions cited in Appendix F were included to reflect revisions elsewhere in the Plan text.))

**CHAPTER 1 Section**  
((Page F-1))

- **Updates to Special Policies for Water and Sewer Service (Section II.G.):**
  - For the Community Service for Abutting Mains Policy - Revised the policies for community service for properties abutting community service mains (II.G.3.):
    - Limited extensions of existing abutting mains may be considered in cases where an extension would allow for better placement of the service connection relative to the building receiving new service. This would also allow another property that abuts the new extension to qualify for community service under this policy (II.G.3.a). Properties that abut new main extensions are limited to one connection per property and new connections will be limited to improved properties and recoded building lots. That allowed connection cannot support subdivision or resubdivision of that newly abutted property.

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- A new provision allows for the transfer of an abutting mains connection “right” from one eligible property to another, commonly owned, ineligible property under strictly limited conditions. Among other requirements, the two properties must be adjacent to each other, and both must abut a qualifying water or sewer main. The property donating the connection right surrenders the connection right then becomes ineligible for the abutting mains service connection. (II.G.3.c.)

...

- The Community Service for Commercial Land Uses policy addresses the provision of water and/or sewer service for properties with commercial land uses located outside the planned community service envelopes. The requirements for community service under this new policy closely mirror those of the private institutional facilities policy. Among the exceptions included are that the commercial uses qualifying for community service do not need to be tax-exempt under the U.S. I.R.S. code and they cannot be located within the Rural and Rural Cluster Zones, in addition to the Agricultural Reserve Zone. (II.G.5.)

**APPENDIX C Section**((Page F-7))

- In the Riverwood Drive section, [proposed to reduce the area of the existing restriction as part of the existing area already has public sewer service and other parts of the existing area are not accessible from the Riverwood Drive sewer main.] reduced the area of the existing restriction, removing those areas served by community sewerage systems and with existing and access to existing community sewerage systems. (II.N.)



March 16, 2023

The Honorable Evan Glass  
County Council President  
Montgomery County Council  
Stella Werner Council Office Building  
100 Maryland Avenue  
Rockville, MD 20850

Dear Council President Glass:

The Maryland Department of the Environment (MDE) has completed its review of **Montgomery County's 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan (Plan)**. The Montgomery County Council adopted the Plan on October 25, 2022, through Resolution No. 19-1423. Resolution 19-1423 represents a comprehensive update from the prior Montgomery County Plan.

During MDE's initial review of the Plan, it was determined that more time was required for MDE to complete its final review. The initial review period, set to expire on January 30, 2023, had been extended by an additional 45 days making the new due date March 16, 2023.

### **Maryland Department of Planning Findings**

Maryland Department of Planning (MDP) has reviewed the following text amendments made to the Plan for consistency with Thrive Montgomery 2050 (Thrive 2050), dated October 25, 2022, and/or the Water Resources Functional Plan (WRP), dated September 2010.

- Chapter 1 - I.E.3.a.: Washington Suburban Sanitary Commission (WSSC Water, WSSC) (Page 1-13)  
Text added to clarify WSSC-Water's role in the category change review process.

MDP has no comment on this clarifying language.

- II.G.3.: Community Service for Properties Abutting Community System Mains  
II.G.3.a.: General Requirements Technical Feasibility of Service Connections Page 1-37

Text added to clarify which confronting properties, that abut new main extensions, can receive service connections from those mains. The intent is to not allow these main extensions to promote unapproved development.

MDP is concerned that the new language will allow an extension of a main such that new properties can be served, specifically, those properties that confront the new main extension. MDP is concerned because the text amendment may cause unintended consequences of mains being extended in a prolific manner throughout the county. Additionally, the language of the text amendment seems to say that once an extension is made for a confronting property it cannot be extended any further, yet this seems to be an unenforceable provision and inequitable to other homeowners when a failed septic or public health issue arises.

Prior to this text amendment, the Plan's abutting mains policy allowed a limited number of properties to take advantage of water and sewer mains that are available for those properties. Several limitations were built into the policy to ensure that it would not result in uncontrolled and unintended public service in areas using on-site systems. MDP suggests that this proposal to allow new main extensions should only be allowed if there is evidence of a failed septic confirmed by the health department and with confirmation there is no feasibility of repair or new septic system to be placed on the subject property.

The new language under Section II.G.3, Technical Feasibility of Service Connections allows for liberal main extensions. The language is confusing and may be difficult to interpret and/or enforce. The abutting mains policy is intended to only serve abutting properties from existing mains, but the new language for confronting properties may contribute to the extension of mains in the right-of-way that may induce growth or sprawl, a term used extensively throughout Thrive 2050, which speaks strongly against sprawl.

Amendments to the Plan's text should be preceded by an analysis included in the county's general plan, specifically the water resources element. MDP was unable to find any reference to the proposed amendment language in the policies of the newly approved and adopted Thrive 2050. Likewise, there is no mention in the WRP. The properties included in County Council Resolution No. 19-1425 are located within the approved and adopted 2002 Potomac Master Plan (as was reported in the earlier amendment reviews associated with the properties prior to the adoption of Thrive 2050) and there is no such policy mentioned there either. There is no information provided that indicates how this amendment might affect or induce growth or impact land use patterns throughout the county, such as the quantity of properties eligible for extending a main to create a confronting property situation, and its impact on the public sewer system. Therefore, MDP finds this proposed text amendment **appears to be inconsistent** with Thrive 2050 and the WRP.

- II.G.3.: Community Service for Properties Abutting Community System Mains  
II.G.3.c.: Transfer of an Abutting Mains Single Service Connection Qualification  
(Page 1-40)

A new policy added at the direction of the T&E Committee to allow a "connection

right” under the abutting mains policy to transfer from a qualifying property to an adjacent, co-owned property that does not qualify for an abutting mains connection.

Comment: This amendment to the Plan Section II.G.3 is directly derived from specific properties currently under review by MDE associated with County Council Resolution No. 19-1425 (previously deferred under CR 19-748), and concurrently adopted on October 25, 2022, specifically WSCCR 220-TVR-09A: Samians Siham Ainane. In this case, the applicant is the owner of two adjoining properties as identified in the State Department of Assessments and Taxation (SDAT) database: a single-family home on a recorded lot and the abutting outlot recorded as Lot 2 and Outlot “A,” Block D, Piney Glen Farms, as recorded in July or 2004. The owner is asking that because the existing home is serviced by a septic system, the applicant would like to transfer the “right” to the abutting main from Lot 2 to Outlot “A.” In doing so, the applicant is most likely seeking to achieve another buildable lot under Division 50.7, Main Subdivision Section 7.1, Applicability B. Conversion of an outlot into a lot. The problem with the allowance to transfer the “right” of a connection to an abutting main from one lot to an outlot is that the existing lot that has been built upon may need a connection upon future septic system failure. In that case, the record lot has an existing house on the property that was built in 1961, according to SDAT records. If the septic system on that property fails and there is an attempt to connect to the abutting main, how will the county respond to the need to address the issue of public health and safety? Another question relates to the future transfer of either of the properties to others, as the same ownership clause does not say it is in perpetuity. How is notice intended to be given to a new purchaser of either the existing lot or the current outlot, which appears to be a proposal to convert it to a buildable lot? It should not be expected that a home buyer could possibly understand this amendment.

Prior to this text amendment, the Plan’s abutting mains policy allows a limited number of properties to take advantage of water and sewer mains that are available for those properties. Several limitations were built into the policy to ensure that it would not result in uncontrolled and unintended public service in areas using on-site systems. Furthermore, from a planning perspective, MDP was unable to find any reference to this amendment language in Thrive 2050, the WRP, or the underlying approved and adopted 2002 Potomac Master Plan (as was reported in the earlier amendment reviews associated with the property prior to the adoption of Thrive 2050). There is no information provided that indicates how this amendment might induce growth or impact land use patterns throughout the county, such as how many properties could be converted from outlots to buildable lots and its impact on the public sewer system. Therefore, MDP finds this proposed text amendment **appears to be inconsistent** with Thrive 2050 and the WRP.

- II.G.5.: Community Service for Commercial Land Uses ((Page 1-45))

A new policy added at the direction of the T&E Committee to allow for the limited

provision of community service for properties with commercial uses located outside the planned community service envelopes.

Comment: This amendment derives directly from specific properties currently under review by MDE associated with County Council resolution No. 19-1425, adopted on October 25, 2022, specifically WSCCR 20-TRV-14A: Transquest and WSCCR 20-TRV: Travilah Oak LLC. The proposal to allow for the provision of community water and sewer systems for commercial land uses outside of the planned community service envelope as described in Section II.G.5 is found on page 1-45 of the Plan. The new language is confusing and may be difficult to interpret by those tasked with implementing it. It states that the new policy parallels the Private Institutional Facilities (PIF) policy, which is largely based on the concept of allowing tax exempt non-profit entities to utilize the exemption. PIF also includes a discussion of the relationship of the policy to the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) (page 1-41). But there are many questions that this amendment leaves unanswered.

The Community Service for Commercial Land Uses policy lists a few examples of commercial uses that could be helpful in serving areas outside of the community service envelope, but it is not limiting in regard to the commercial uses and may result in any commercial use being eligible for service outside the envelopes (page 1-45) except for expansion into the Agricultural Reserve, Rural, and Rural Cluster zones. It also allows for the conversion of residential structures to commercial uses and to be considered for main extensions for service. This text amendment is not well defined, is very broad, and was not addressed in the recent approval of Thrive 2050, the approved and adopted WRP, or the underlying approved and adopted 2002 Potomac Master Plan (as was reported in the earlier amendment reviews associated with the property prior to the adoption of Thrive 2050). There is no information provided that indicates how this amendment might induce growth or impact land use patterns throughout the county, such as how many properties, including existing commercial or future residential conversion throughout the county could be become eligible, and its impact on the public sewer system. Therefore, MDP finds this proposed text amendment **appears to be inconsistent** with Thrive 2050 and the WRP.

- IV.A.: Washington Suburban Sanitary District IV.A.2.: Local Service Extension Programs IV.A.2.c.: Efforts to Address Underserved and Unserved Communities (Pages 1-67 – 1-68) Unserved and Underserved Subgroup of the Bi-County Infrastructure Financing Committee (underscored as in the text, not added language) A revision to update the status of the program since the preparation of the Executive draft Plan.

Comment: This is an update to the current text and is included in the Plan text for informative purposes. MDP has no comment on this update.



- V.D: Review and Consideration of Plan Amendments (Page 1-73)

Text added to clarify the roles of the reviewing agencies in the category change request review process.

Comment: Added text that expands the discussion of the primary reviewing agencies for service area category change requests and those agencies' responsibilities in the process. MDP has no comment on this update.

- Chapter 2 - II.E. Water Resources: II.E.5. Water Quality Programs: (Pages 2-16 - 2-17)

Updated the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System Permit Program (AKA the MS4 Permit Program).

Comment: This updating language relates to the MS-4 permitting process. MDP has no comment on this amendment.

- Chapter 3 - II.C: Water Supply Sources Programs and Policies: II.C.2: Regional Drought Operations: (Pages 3-14 – 3-15)

Updated the text to reflect revised operations rules and procedures for reducing the impacts of severe droughts in the Potomac River for the Washington Metropolitan Area Water Supplier.

Comment: This amendment is related to Regional Drought Operations and intended to inform the reader that federal legislation may make the Metropolitan Washington region eligible for funding for a feasibility study under the Water Resource Development Act 7001. This update is for informational purposes. MDP has no comment on this informative additional language and anticipates that if the federal legislation is reviewed and passed, then the Plan will be updated further.

- Plan Recommendation: Potential Use of Travilah Quarry for Additional Raw Water Storage ((Page 3-19))

Updated language on Plan Recommendation for Potential Use of Travilah Quarry for Additional Raw Water Storage

Comment: This amendment is supported by Thrive 2050 and is explained on page 116, as it has been studied for a long period of time by the "Interstate Commission on the Potomac River Basin, the Washington Suburban Sanitary Commission, the Metropolitan Washington Council of Governments, DC Water, and the Washington Aqueduct to use the open pit as an emergency water supply reservoir." Therefore, MDP finds that this amendment **appears to be consistent** with Thrive 2050.

- Appendix C - II.N. Riverwood Drive (Pages C-18 – C-19 & Figure C-F14)

The area proposed for removal from the restricted sewer service area was revised at the recommendation of County Council staff. This left most of the Potomac Manor

Section 2 subdivision in the restricted sewer service area in addition to the other two subdivisions.

Comment: This amendment seems to address a specific Restricted Sewer Service Area known as Riverwood Drive per an earlier Council Resolution (13-1205 in 1998) by deleting language that is no longer applicable. MDP has no comment on this amendment (see enclosed MDP comments and contact information).

### **MDE Review and Action**

1. A draft for this Plan was never received by MDE for review, as required by COMAR 26.03.01.03. The County is reminded to send in drafts for review.
2. Wetlands and Waterways Protection Program (WWPP)
  - There are mapped/wetlands hydric soils or streams and 100-year floodplains in the vicinity of the Riverwood Drive area. The applicant is encouraged to consult with the WWPP to verify the presence of wetlands, their buffers, stream, and its 100-year floodplain in relation to any activities which are planned for the property. Activities in these water resources may be subject to regulatory requirements from the MDE's WWPP.
  - Early coordination with the WWPP for new major or replacement lines is recommended in advance of submitting applications and to discuss any new requirements related to restoration of wetlands after temporary impacts.
  - The plan mentions new extensions for water and sewer lines, storage facilities, and/or treatment plants. Where practicable, locations of the utility lines and facilities should support protection measures from future development in wetlands, waterways, or floodplains, as well as avoiding and minimizing impacts from the line, treatment facility, and supporting utility infrastructure. Suggested for consideration include:
    - a prohibition on new subdivision lots in wetlands;
    - avoidance and minimization requirements;
    - site plan considerations over multiple parcels that provide for contiguous wetland and stream corridors to be maintained, with minimum fragmentation from roads, buildings, or other structures; and
    - location of new or replacement lines in existing utility or road rights-of-way.
  - Coordination with MDE is highly recommended for the review of proposals to use Travilah Quarry for water supply (see enclosed WWPP comments and contact information).

In accordance with §9-507(a) of the Environment Article, Annotated Code of Maryland, the Department hereby **approves Montgomery County's 2022-2031 Comprehensive Water**

**Supply and Sewerage Systems Plan in part, modifies in part, and disapproves the 2022-2031 Plan in part (see enclosed modifications).**

**Please be advised that in accordance with Environment Article 9-508(b), at any time up to six months after receiving this disapproval, the County may request the Secretary of the Department to reconsider the disapproval.**

**The Department modifies and disapproves the following portions of the 2018 Plan, as set forth below (see enclosed modifications):**

- **Executive Summary**

The Department is **modifying** the Executive Summary to incorporate information regarding the Public Hearing held for this Plan and the Engineering Aspects throughout the Plan.

- **Chapter 1 - II. Policies For The Provision Of Water And Sewerage Service - II.G.3.a.: General Requirements**

The Department is **modifying** II.G.3.a.: General Requirements to incorporate changes deemed necessary regarding concerns from MDE and MDP.

- **Chapter 1 - II. Policies For The Provision Of Water And Sewerage Service - II.G.3.c.: Transfer of an Abutting Mains Single Service Connection Qualification**

The Department is **disapproving** II.G.3.c.: Transfer of an Abutting Mains Single Service Connection Qualification because the proposed policy is silent on the potential for significant but unintended consequences related to the transferring of an abutting mains service connection “right”, including but not limited to:

- Future failure of the original property’s onsite system after the connection “right” has been transferred. It is unclear how the proposed policy II.G.3.c. will address the emergent public health and safety issue arising from the failed system.
- The timeline associated with the transference of the connection “right”. A perpetuity clause was neither included nor addressed, in the event of either property coming under different ownership (MDP).
- Should such a policy be adopted on a county-wide scale, the development of an accompanying inventory or tracking database should be considered, to prevent confounding issues with future amendments to the CWSP.

**Chapter 1 - II. Policies For The Provision Of Water And Sewerage Service -**

## **II.G.5.: Community Service for Commercial Land Uses**

The Department is **disapproving** II.G.5.: Community Service for Commercial Land Uses for the following reasons:

- This policy is intended to parallel the existing PIF policy. The existing PIF policy has built-in exclusions to limit growth. The proposed II.G.5. policy undermines the original PIF policy by providing its benefits while ignoring some of its exclusions. This new policy is inherently incongruous with the original PIF policy that it intends to parallel.
  - Additionally, the proposed policy appears to be lacking the specificity needed to prevent significant but unintended consequences and confusion regarding the potential for category changes that are not supported by the Plan.
  - The Community Service for Commercial Land Uses policy lists a few examples of commercial uses that could be helpful in serving areas outside of the community service envelope, but it is not limiting in regard to the commercial uses (MDP). Should a revision of this policy be submitted for approval in the future, a comprehensive list of commercial services to which the policy applies should also be included.
- **Chapter 3 - III. Rockville Service Area**

The Department is **modifying** Chapter 3 - III. Rockville Service Area to incorporate information regarding the Maryland Water Conservation Plumbing Fixtures Act for the Rockville Service Area and the Town of Poolesville.
  - **Chapter 4 - Introduction and Background**

The Department is **modifying** Chapter 4 - Introduction and Background to incorporate information regarding how the conformance of existing and programmed sewerage facilities meets or will meet the effluent limitations specified in COMAR 26.08.03.01.
  - **Chapter 4 - I.C.1.B.i. Blue Plains Service Area Projected Wastewater Treatment Needs**

The Department is **modifying** Chapter 4 - I.C.1.B.i. Blue Plains Service Area Projected Wastewater Treatment Needs to incorporate information regarding long-term flow projections (2040) based on projected household, employment, and population increases.
  - **Chapter 4 - I.C.2.A. Collection and Conveyance Systems**

The Department is **modifying** Chapter 4 - II.C.2.A. Collection and Conveyance Systems to add Table 4-15 - Seneca Service Area - Projected Wastewater Flow and delete Table 4-T15 - Future Wastewater Flows from the Seneca Creek Basin.

- **Chapter 4 - I.C.2.B. Seneca Treatment Facilities**

The Department is **modifying** Chapter 4 - I.C.2.B. Seneca Treatment Facilities to incorporate more information regarding the Seneca Water Resource Recovery Facility.

- **Chapter 4 - I.C.3.B. Damascus Treatment Facilities**

The Department is **modifying** Chapter 4 - I.C.3.B. Damascus Treatment Facilities to incorporate more information regarding the Damascus Water Resource Recovery Facility and to add the Table - Damascus Service Area - Projected Wastewater Flow.

- **Chapter 4 - I.C.4.B. Treatment Facility**

The Department is **modifying** Chapter 4 - I.C.4.B. Treatment Facility to incorporate more information regarding the Hyattstown Water Resource Recovery Facility.

- **Chapter 4 - III.E. Treatment Facilities**

The Department is **modifying** Chapter 4 - I.C.4.B. Treatment Facility to incorporate more information regarding the Poolesville Wastewater Treatment Plant.

- **Chapter 4: Sewerage Systems**

The Department is **modifying** Chapter 4: Sewerage Systems to add the Poolesville Wastewater Treatment Capacity Management Plan.

- **Appendix B: Multiuse Water and Sewer Facilities**

The Department is **modifying** Appendix B: Multiuse Water and Sewer Facilities to revise NIH Animal Farm's Address and Design Capacity.

- **Appendix E: County's Major Public Facilities and Institutions**

The Department is **modifying** Appendix E: County's Major Public Facilities and Institutions to incorporate a statement that WSSC Water no longer uses population to calculate demand and that is why the listing of the County's Major Public Facilities does not contain the existing and forecasted populations. In addition, to add a new map displaying Montgomery County's Major Public Facilities and Institutions.

The Honorable Evan Glass

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This completes MDE's review, as required by §9-507 of the Environment Article, Annotated Code of Maryland. If you need further assistance on these matters, please contact Heather Barthel, Deputy Director, at (410) 537-3512, toll-free at (800) 633-6101, or by e-mail at [heather.barthel@maryland.gov](mailto:heather.barthel@maryland.gov).

Sincerely,



D. Lee Currey, Director  
Water and Science Administration

Enclosure

cc: Keith Levchenko, Senior Legislative Analyst, Montgomery County Council  
Adriana Hochberg, Acting Director, Montgomery County DEP  
Alan Soukup, Senior Planner, Montgomery County DEP  
George Dizelos, Environmental Planner, Montgomery County DEP  
Charles Boyd, Director, Planning Coordination, MDP  
Les Knapp, Senior Policy Advisor, MDE  
Heather Barthel, Deputy Director, Water and Science Administration, MDE