Permit Pioneer

- Montgomery County’s February 2010 MS4 Permit First in Maryland to Include Ambitious 20% Impervious Surface Restoration (ISR) Requirement
  - Remaining Phase I MS4 individual permits issued December 2013 to October 2015
  - Phase II MS4 general permit re-issued April 2018
- Permit Litigated Before Being Issued, Remanded to MDE In 2013, Upheld in 2016
  - County continued to implement requirements of permit despite ongoing litigation
  - Water Quality Protection Charge (WQPC) revenue more than tripled from $12M/Yr in FY11 to $37M/Yr in FY17
  - Bonds totaling $84M issued in 2012 and 2016 to fund capital projects
- MDE Guidance on Accounting for Impervious Acres Treated Issued August 2014
  - Extensive coordination with MDE was necessary to determine treated and untreated acres, practices that qualify as treatment
Permit Accomplishments as of FY17

- 2,927 Impervious Acres Restored, 851 remaining to meet 20% ISR requirement
- County-Implemented Capital Projects Include:
  - 365 Environmental Site Design/Low Impact Development BMPs
  - 26 outfall stabilization projects
  - 24 stormwater pond retrofits
  - 16 stream restoration projects (30 miles of stream restored)
- Urban BMP Inventory Includes Almost 12,000 Facilities (more than 5,000 are ESD)
- Over 8,600 Trees Planted
- 1,340 RainScapes Projects Implemented on Private Property
  - Over $1M in Rebates issued to property owners
Consent Decree

- Signed by MDE and Montgomery County April 13, 2018
- Alleged Violations:
  - Failed to complete 20% ISR by February 15, 2015
  - Some BMPs missing data
- Judgment of $300,000 due on December 31, 2020
  - Can be satisfied by completing MDE-approved Supplemental Environmental Projects (SEPs)
- Corrective Actions:
  - Detailed annual milestone schedule for completion of 20% ISR by December 31, 2020
  - Detailed description and annual milestone schedule for completion of SEPs by December 31, 2020
  - Proposal and schedule for submission of missing BMP inspection data
Improvements to ISR Accounting

- When permit first issued, focus was on building CIP capacity needed to achieve 20% ISR
- In December 2016, initiated comprehensive effort to evaluate urban BMP database and review impervious surface and BMP drainage area data
  - Identified significant backlog of BMPs installed through private development and missing drainage and impervious area data
  - Evaluated alternative BMP options outlined in MDE's 2014 Accounting Guidance and Chesapeake Bay Program expert panel reports
- Significant increase in impervious acres restored in FY17
  - Credit for new BMPs treating existing impervious areas (567.6 acres)
  - Impervious surface credit for connection of septic systems to WWTP (153.7 acres)
  - CIP Projects including ESD, pond retrofits and stream restoration (158.7 acres)
Moving Forward

- County Remains Committed to Completing 20% ISR Required by 2010 Permit
- Anticipate New Permit in 2019 to Include:
  - Additional ISR Requirement
  - Continued progress toward Total Maximum Daily Load (TMDL) implementation
  - Increased good housekeeping requirements for County properties
    - Includes development of a salt management plan
  - New water quality monitoring requirements
- FY19 Budget Holds WQPC Steady (no increase)
- Main financing mechanism for CIP program will be MDE Water Quality Revolving Fund loans (lower interest rate than bonds)
- Contracting strategy to move from separate design and construction contracts to a single contract for delivery of design, construction, and maintenance
Outstanding Questions

- What metrics can help determine if necessary environmental improvements are happening?
- How do local jurisdictions balance meeting the requirements of MS4 permits, which are focused on water quality, with the potential for continued increases in flooding and extreme weather events?
- Are there opportunities for partnerships to be formed between the local, state and federal governments, industry and academia to achieve improvements more efficiently?
- Are there ways to communicate the efforts of MS4 jurisdictions more effectively?