

VACO 79TH ANNUAL CONFERENCE – NOVEMBER 11, 2013
BLAZING NEW TRAILS

STORMWATER MANAGEMENT:
The Next Steps for Counties

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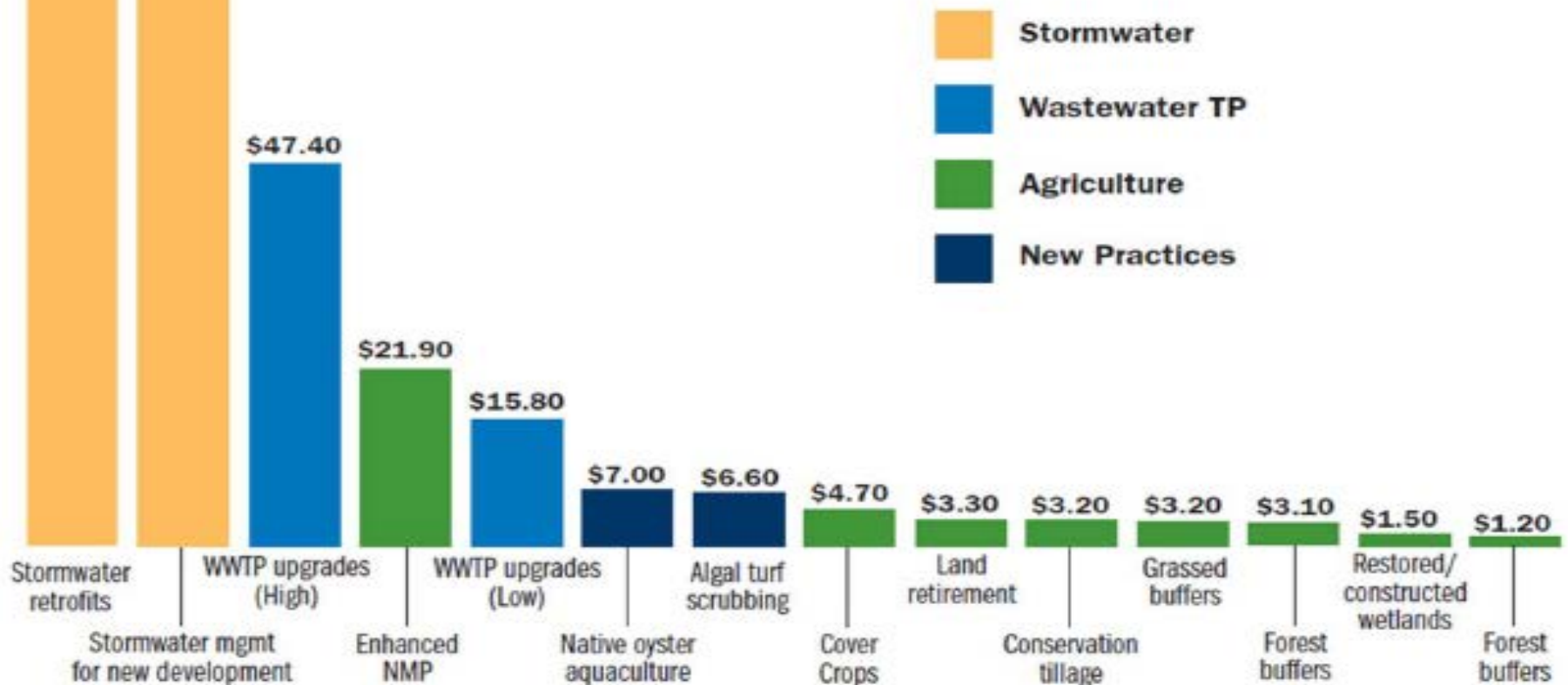
COORDINATOR & GENERAL COUNSEL



Stormwater Retrofits Are Very Costly



Relative Per-Pound Costs of Reducing Nitrogen Pollution in the Chesapeake Bay Region



Retrofits for Existing Development Are the Greatest Challenge for MS4 Counties

- **Stormwater Ordinances = Tip of the Iceberg**
 - Design **New** Development & Redevelopment Well
 - Counties Regulate Developers
 - Developers Install Controls & Pay Fees
- **Larger Issue = MS4 Permits & Related TMDLs**
 - Municipal Separate Storm Sewer Systems (“MS4s”)
 - Add TMDL Stormwater Controls for **Existing** Development
 - DEQ Regulates MS4 Counties, Counties Install Controls

TMDLs Drive Retrofit Requirements

- **TMDLs Are Clean Water “Budgets”**
 - Sets the Total Maximum capacity of the water body
 - Budget rules are evolving through litigation, permits, policy
- **Budget for WHAT?**
 - “Pollutant” loads (water *quality* issue)
 - Not a cap on volume or flow of water (*quantity*)
 - *VDOT & Fairfax Co. v. EPA* (E.D.Va. 2013)
- **Budget for WHOM?**
 - Local WWTPs and MS4s
 - Also, Upstream States & Nonpoint Sources
 - *Amer. Farm Bureau Fed. v. EPA* (M.D. Pa. 2013) (appeal pending)

Which Counties Have TMDL Retrofit Requirements?

- **Your County Holds an MS4 Permit**
 - See list of MS4 Counties on next slide

AND

- **A TMDL Regulates Your County's MS4 Discharge**
 - Entire Chesapeake Bay Watershed, **plus**
 - Local TMDLs
 - See 1,000+ DEQ TMDLs on DEQ website
 - This is a ***statewide*** issue

Regulated MS4 Counties

Phase 1

Counties

Arlington

Chesterfield

Fairfax

Henrico

Prince Wm.

Phase 2

Counties

Albemarle

Augusta

Botetourt

Fauquier

Isle of Wight

James City

Loudoun

Montgomery

Roanoke

Spotsylvania

Stafford

York

Phase 2

Towns

Abingdon

Ashland

Blacksburg

Bridgewater

Christiansburg

Dumfries

Herndon

Leesburg

Vienna

Vinton

Warrenton

What Must MS4 Counties Do?: Develop TMDL Action Plans

- **Develop & Implement TMDL Action Plans**
 - Capital Project Plan for Stormwater Controls for Pollutants
- **MS4 Counties Have Approx. 2 Years to Do This**
 - Timelines vary slightly by county and TMDL type
- **County's Plan Will Be Binding & Enforceable**
 - DEQ, EPA, and Citizen Suits

What Must MS4 Counties Do?: Implement TMDL Action Plans

- **Chesapeake Bay TMDL***
 - Now Through June 2018: Make 5% Progress
 - By June 2023: Make 35% Progress
 - By June 2028: Achieve 100%
 - Specific Timeline Makes Bay TMDL a “Super-Priority”
- **Other TMDLs**
 - Must Make “Adequate Progress”
 - “Maximum Extent Practicable” Standard
 - Ad hoc process using an indefinite standard

**Phase 2 MS4 schedule; Phase 1 schedule varies*

Potential New Funding Sources

- **Stormwater Local Assistance Fund**
 - State Budget appropriated \$35 Million in FY14
 - Applications due to DEQ by Nov. 15, 2013 (5:00PM)
 - Coalition including VACo, VAMSA and others are seeking continuing State cost-share funding
- **Stormwater Utility Fees or Service District Tax**
 - Authorized by State law
 - A local decision (in contrast to Maryland's controversial mandate for Local Stormwater Utility adoption)
 - Examples (see next slide)

SW Utilities	Permit	Avg. Fee	Revenue	Population	\$ Per Capita
		(\$/Month)	(\$/Year)	(2012)	(Annual est.)
City of Norfolk	Phase 1	8.91	15,000,000	245,800	\$61.03
City of VA Beach	Phase 1	9.61	32,200,000	447,000	\$72.04
City of Portsmouth	Phase 1	9.25	7,500,000	96,500	\$77.72
City of Newport News	Phase 1	8.00	13,000,000	180,700	\$71.94
City of Hampton	Phase 1	6.41	6,400,000	136,800	\$46.78
City of Chesapeake	Phase 1	7.35	14,900,000	228,400	\$65.24
Prince William County	Phase 1	3.01	7,100,000	430,300	\$16.50
City of Suffolk	Phase 2	5.24	3,500,000	85,200	\$41.07
City of Richmond	Phase 2	3.75	3,500,000	210,300	\$16.64
City of Staunton	Phase 2	3.20	705,000	23,900	\$29.50
City of Lynchburg	Phase 2	4.00	2,600,000	77,100	\$33.72
City of Colonial Heights	Phase 2	2.00	370,000	17,500	\$21.14
Town of Bridgewater	Phase 2	1.00	65,000	5,800	\$11.21
City of Charlottesville	Phase 2	*	1,600,000	44,000	\$36.36
SW Service Districts	Permit	Tax Rate	Revenue	Population	\$ Per Capita
		(\$/\$100AV)	(\$/Year)	(2012)	(Annual est.)
Fairfax County	Phase 1	0.020	40,000,000	1,119,000	\$35.75
Arlington County	Phase 1	0.013	8,000,000	221,000	\$36.20
City of Alexandria	Phase 2	0.050	1,700,000	146,300	\$11.62

Conclusion

- **Leadership**
 - Stormwater is now a Management and Board-level issue
- **Regulatory Risk**
 - Permits & TMDLs mean big burdens & liability exposure
- **Financing**
 - MS4 counties will typically need more revenue to comply
- **Opportunity**
 - Early attention to strategic development of TMDL Action Plans can increase flexibility, minimize risk & save money

FOR MORE INFORMATION

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