



Maryland
Department of
the Environment

Larry Hogan
Governor

Boyd Rutherford
Lieutenant Governor

Ben Grumbles
Secretary

July 11, 2016

Re: Notice of Permit Decision
Nontidal Wetlands and Waterways Permit Application
Tracking Number 15-NT-0340/201561622

Dear Property Owner, Public Official, or Interested Person:

After examination and consideration of the documents received and evidence in the application file and record for 6789 Goldsboro LLC, the Water Management Administration has determined that the application meets the statutory and regulatory criteria necessary for issuance of a Wetlands and Waterway Permit. Copies of the permit and the Summary of the Basis for Decision are enclosed with this permit decision.

This is a final agency determination; there is no further opportunity for administrative review. Any person with standing, who is either the applicant or who participated in the public participation process through the submission or written or oral comments may petition for judicial review in the Circuit Court in the County where the permitted activity is to occur. The petition for judicial review must be filed within 30 days of the publication of the permit decision. Please see the attached Fact Sheet for additional information about the judicial review process.

If you have any questions or need any additional information, please do not hesitate to contact me at 410-537-3821.

Sincerely,

A handwritten signature in cursive script that reads "William Seiger".

William Seiger, Chief
Waterway Construction Division

/WS

Enclosures

FACT SHEET NEW JUDICIAL REVIEW PROCESS

Legislation passed by the 2009 General Assembly changes procedures for certain permits issued by the Department, including wetlands and waterways permits. The new judicial review procedures take effect on January 1, 2010 and will apply to final permit decisions issued on and after January 1, 2010.

Under pre-existing procedures, permit applicants and third parties with standing under Maryland law could challenge the issuance of a permit or the conditions of a permit through a request for a “contested case” adjudicatory hearing conducted by the Office of Administrative Hearings.

Effective January 1, 2010, the “contested case” process no longer applies to final decisions on applications for these permits. Rather, permits can be challenged through a request for direct judicial review in the Circuit Court for the county where the activity authorized by the permit will occur. Applicants, and persons who meet standing requirements under federal law and who participated in a public comment process by submitting written or oral comments (where an opportunity for public comment was provided), may seek judicial review. Judicial review will be based on the administrative record for the permit compiled by the Department and limited to issues raised in the public comment process (unless no public comment process was provided, in which case the review will be limited to issues that are germane to the permit).

Who Has Standing?

Anyone who meets the threshold standing requirements under federal law and is either the applicant or someone who participated in the public participation process through the submission of written or oral comments, as provided in Environment Article § 5-204, Annotated Code of Maryland. The three traditional criteria for establishing standing under federal law are injury, causation, and redressability, although how each criterion is applied is highly fact-specific and varies from case to case. Further, an association has standing under federal law to bring suit on behalf of its members when its members would otherwise have standing to sue in their own right, the interests at stake are germane to the organization’s purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.

What is the Procedure for Seeking Judicial Review?

Petitions for judicial review of a final determination or permit decision subject to judicial review must be filed in accordance with § 1-605 of the Environment Article no later than 30 days following publication by the Department of a notice of final determination or final permit decision and must be filed in the circuit court of the county where the permit application states that the proposed activity will occur. Petitions for judicial review must conform to the applicable Maryland Rules of Civil Procedure.

To review the legislation follow the link below:

http://mlis.state.md.us/2009rs/chapters_noin/Ch_650_sb1065T.pdf

For a complete list of permits that these procedures apply to follow the link below:

http://www.mde.state.md.us/programs/ResearchCenter/LawsandRegulations/Pages/ResearchCener/laws_regs/jrproc.aspx

SUMMARY BASIS FOR DECISION

6789 Goldsboro LLC

Name of Applicant

15-NT-0340/201561622

Application Number

Hira Shrestha

Project Manager

July 8, 2016

Date of Decision

The Environment Article, Annotated Code of Maryland and the Code of Maryland Regulations establish criteria for the Maryland Department of the Environment (Department or MDE) to consider when evaluating projects that propose to change the course, current or cross section of a nontidal stream or other body of water or to impact a nontidal wetland. If the criteria are satisfied, the Department may issue a permit for the proposed activity. The Department may deny a permit for a waterway construction activity that it believes is inadequate, wasteful, dangerous, impracticable or detrimental to the best public interest. The Department may not issue a nontidal wetland permit for a regulated activity unless it finds that the applicant has demonstrated that a regulated activity, which is not water-dependent, has no practicable alternative, will minimize alteration or impairment of the nontidal wetlands, and will not cause or contribute to a degradation of ground or surface waters.

In the case of the proposed construction for a 19-unit townhouse development and relocation & restoration a portion of an unnamed tributary to Minnehaha Branch located at 6789 Goldsboro Road, Bethesda, MD, (proposing to impact 760 linear feet (7,921 square feet) of stream and 12,007 square feet of 100-year floodplain of an un-named tributary to Minnehaha Branch), the question for the Department to address is whether or not the proposed project impacts are acceptable under the regulations as they pertain to such construction activities. No wetlands were found to be present within the site. This was determined by Paula Stonesifer, Nontidal Wetlands Division from a site visit on November 30, 2015 (see email dated March 10, 2016 from Paula Stonesifer in the permit file) and confirmed by Sean McKewen, Western Section Chief, Nontidal Wetlands Division, resulting from a site visit on June 15, 2016 (see email dated June 16, 2016 from Sean McKewen in the permit file). The U.S. Army Corps of Engineers elected to call an area of stream as nontidal wetland because their previous Jurisdictional Determination on the site did so, even though it doesn't exhibit the required characteristics of a jurisdictional wetland (see Sean McKewen's email).

PUBLIC NOTICE

Adjoining property owners, local government officials and other interested persons must be notified of proposed impacts to nontidal wetlands and waterways. In addition, an opportunity to comment and request a public informational hearing must be provided via a local newspaper. The public notice for this application was sent to adjoiners and published in The Sentinel on February 25, 2016.

During the public notice period, from February 25 through March 10, the Department received several public comments. Due to the public interest in the project, a public informational hearing was held on May 25, 2016 at the Walt Whitman High School Cafeteria, 7100 Whittier Blvd, Bethesda MD 20817. Approximately 24 people attended the hearing (sign-in sheets, project manager notes on public comments and a copy of the hearing speech are included in the permit file).

The Department received written comments during the public comment period. The comments included: increased flooding on Goldsboro Road, stability of the steep slopes surrounding the development, overcrowding of roads and schools, impact to mature trees, increases in the impervious surface and runoff concerns, storm water management concerns, nontidal wetlands on site. Copies of the submitted written comments by all commenters are in the permit file.

It is important to note that the Department's decision is limited to the issues relevant to the nontidal wetlands and waterways regulations and discussed in detail in the appropriate sections below. Certain issues raised during the public comment period are not directly within the scope of the Department's review.

1. Several of the comments received concerned: impacts to mature trees and tree roots; tree removal; the stability of the steep slopes on both sides of the property; impacts to non-listed species; the consistency with local zoning and master plan; consistency with county environmental guidelines; overcrowding of local roads and schools; and impacts from increased density to single-family housing abutting the property.

These comments are beyond the scope of MDE, Waterway Construction Division's review.

2. Several comments concerned increased flooding of Goldsboro Road due to the project.

A hydrologic and hydraulic analysis of the project shows that the existing and proposed 100-year water surface elevation is unchanged at the upstream end of the culvert flowing from the project site under Goldsboro Road. Due to the public interest in this issue, the Department requested information regarding historical flooding in the area from the Maryland State Highway Administration (SHA). A letter attached with email dated June 22, 2016 was received from SHA and is in the permit file. According to letter, neither the Highway Hydraulic Division or the Structural Hydrology and Hydraulic Division are aware of any recent studies along MD 614 nor anything on the Minnehaha Branch. Additionally, there are not any structures on the replacement schedule along MD 614 or over the Minnehaha Branch. According to Mr. Robert Murry's knowledge, Assistant Resident Maintenance Engineer, there has been no reported flooding of MD 614 in the past three years. Prior to that, the roadway flooded in the vicinity of the culvert crossing with a frequency of about once per year.

3. Multiple comments stated that development in sensitive watershed area would further impair the water quality and biological health of Minnehaha Branch. Comments stated that moving the stream will further damage water flow on the property and the natural environment and stated that the relocated channel will not be an improvement to the existing stream channel.

The middle portion of the stream on the property currently is in a degraded condition due to several man-made alterations made many years ago. For approximately 400 feet, the current stream runs in a narrow, deep hardened channel that is not its natural channel. The artificially hardened stream bottom limits in-stream habitat, biology, and nutrient processing. The proposed stream is designed using natural channel design principles and engineered to mimic a natural, stable stream. Additionally, the restoration project will reconnect the stream to the floodplain. This will allow storm flows in excess of bank full to spread into the overbank area and slow down during storms. The riparian vegetation will help filter out pollutants from the water. Step pools will increase oxygenation of the water in the stream and dissipate the energy. These features are used to slow the velocity of the water. Slowing the velocity helps improve water quality because it allows more sediment to drop out during storm events before reaching Minnehaha Branch.

4. Multiple comments stated that stream relocation would increase erosion on the western side of the property and pose a risk to adjoining properties.

As stated above, the stability of slopes on the property is beyond the scope of MDE's review. However, the relocated stream channel has been designed with a stable, dimension, pattern and profile – minimizing the chance for stream channel migration. Calculations show that the rock size used in the stream channel will not move during storm flows. Additionally, retaining walls are proposed along the stream and they are elevated above the level of stream flow so as to define the boundary of the stream's floodplain. The size and design of the retaining walls will be finalized before construction of the project is allowed to commence. In addition, native riparian plants will be planted along the stream buffer to help stabilize the stream banks.

5. Comments stated that storm water runoff from the east side of property would continue to flow into the existing stream channel and Storm Water Management in the proposed property.

The storm water management study is beyond the scope of MDE's review. To the extent the commenter is concerned about impacts from erosion on water quality; the applicant is proposing to construct a separate storm water collection and management system. According to applicant, storm water from the townhomes and new impervious surfaces will not flow directly into the relocated stream bed and increase its volume. Instead the required portion of such flows will be captured, managed, and released to Minnehaha Branch through a new storm water outfall under Goldsboro Road on the eastern side of the property. Final storm water design must be approved by the County before construction can begin.

6. Comments requested information on how concrete and other materials in the existing stream channel would be managed after stream relocation. Comments stated that the relocated stream would revert to old streambed.

The proposed townhomes will be constructed on the part of the property where the man-made channel currently flows. The concrete and stone will be removed or reused on the site if appropriate.

The old streambed will no longer exist after the proposed action is complete. Engineering techniques such as rock and natural vegetation replanting, along with the new contours of the stream bank, will direct water flows to the new channel.

7. Comments stated that paving over the stream and floodplain in natural valley would degrade natural environment.

A flood plain will be established along the relocated stream that will not be paved over. Of the existing 3.82 acres of forest on site, 2.09 acres will remain forested, and a landscape buffer of 0.26 acres will be replanted with native vegetation. The current conservation plan indicates that 22 of 30 specimen trees on the property will be protected.

8. Comments stated that the new location of stream would not be tied to the existing water table elevation and would be divorced from ground water augmentation. Comments stated that future dry periods would cause the surface channel to dry out.

For the approximately 400-foot section of stream in the existing man-made hardened channel, the stream is currently separated from the water table. The proposed restored stream would replace the concrete channel and create a step-pool system with a natural stream bottom. The applicant's proposal should improve the stream's connection to the surrounding hydrology.

9. Comments stated that the proposed action would replace a natural stream with a man-made channel depositing water into Minnehaha Branch.

The middle portion of the existing stream on the property currently is in degraded condition due to several man-made alterations from many years ago. For approximately 400 feet, the current stream runs in a narrow hardened channel that is not its natural channel.

10. Comments questioned the lack of jurisdictional wetlands on the site.

MDE Nontidal Wetland staff visited the site and identified no jurisdictional wetlands on the property.

11. Multiple comments stated that the proposed action would negatively impact the Appalachian spring snail.

These comments were forwarded to the Department of Natural Resources for their review/input. The response from the Department of Natural Resource is mentioned in the separate endangered species section below. Additionally, any potential habitat for the Appalachian spring snail is in the immediate vicinity of the groundwater seep in the northern part of the property. This area will not be disturbed by the proposed action.

12. A comment requests that the application should be denied.

The relevant waterway construction regulations that apply to this project are 26.17.04.07 Changes in Stream Channels or Floodplains. All applicable regulations have been satisfied including the design report (hydraulic study) and environmental study (functional uplift). The development approval process is multi-layered with County, State and Federal approvals required and the applicant has embarked on the approval process with the understanding that all necessary approvals must be acquired prior to initiation of any work. It is true that the issuance of the MDE Wetlands and Waterways Permit does not permit the applicant to begin work on the project until all required approval/authorizations are granted. The project will require final plan approval from Montgomery County prior to initiation of any work. The project will have approved erosion and sediment control plans and approved storm water management plans prior to the initiation of any work. Any changes to the amount of regulated impacts resulting from this final County review would require a permit modification from the MDE Waterway Construction Division.

PROJECT PURPOSE AND NEED

In order for the Department to authorize impacts to nontidal wetlands and their regulated buffers, regulated activities must be determined to be necessary and unavoidable to meet the basic project purpose. It is also important to note that the orderly development and use of land is regulated through planning and zoning controls implemented by the local government. In this particular instance, Montgomery County makes the decision about appropriate land use of the property.

The project's purpose is to construct 19-unit townhouse development. The work includes relocation and restoration a portion of an unnamed tributary to Minnehaha Branch. The impacts to the stream and floodplain resources are required to allow for development of the site in a safe and efficient manner.

ALTERNATIVES ANALYSIS

For projects that are not water-dependent, the applicant must conduct an alternatives analysis to demonstrate that the project has no practicable alternative. The factors to be considered are whether the project purpose can be accomplished by using one or more alternative sites in the general area; a reduction in the size, scope, configuration or density and would result in less impact; The applicant made a good faith effort to accommodate the site constraints that caused the alternative designs to be rejected; and that the regulated activity is necessary for the project to meet a demonstrated public need.

The alternative site analysis does not apply to this project because the applicant already owned the property and is planning to develop it.

AVOIDANCE AND MINIMIZATION

If the alternative site analysis is accepted, the applicant must demonstrate that adverse impacts to nontidal wetlands, their regulated buffers, and the 100-year frequency floodplain are necessary and unavoidable.

The applicant submitted avoidance and minimization as requested in a letter dated December 14, 2015. According to the response letter, the property is currently zoned R-60, which allows for a maximum of 26 clustered townhouses. However, as discussed below, considering the relatively long and narrow site geometry, existing structure and environmental constraints, and project economics, the applicant is proposing only a 19-unit townhouse development in order to minimize impacts. In addition, constructing the project would improve the natural (environmental) function of the site through the restoration of the degraded, non-functioning stream channel.

An existing stream flows from north to south through the center of the property. The middle section of this stream has been channelized with vertical rock/concrete walls and a grouted/macadam bottom as it flows around the existing single family home. A macadam driveway extends from Goldsboro Road to the existing house, with a bridge span over the stream. Two other bridges spans over the stream also exist adjacent to the house. Within the existing stream, 1-foot and large drops have been constructed which present barriers to upstream migration of aquatic and semi-aquatic organisms. Because of the height of the vertical channel walls, the stream channel is incised with no access to its floodplain.

The proposed project is designed for 19 townhomes located entirely on the eastern side of the relocated stream channel due to site geometry an existing structural (e.g. sanitary sewer line and easement) and environmental constraints. The proposed relocated stream is designed using natural channel design techniques with a series of step pools.

The applicant also submitted a functional analysis using the stream functional pyramid as requested a letter dated December 14, 2015 and is in the permit file. Based on the functional analysis the proposed restoration will result in a functional uplift at the site. Further, it is also possible that minor biological uplift will occur by removal of invasive plant species and the installation of native vegetation associated with the stream restoration.

WATER QUALITY

Erosion and sediment control measures and stormwater management practices are designed to prevent the degradation of ground and surface water quality. Sediment pollution is addressed under Maryland's Erosion and Sediment Control Act. The law mandates local Soil Conservation Districts to review and approve erosion and sediment control plans developed in accordance with State standards. The Department's programmatic responsibilities are limited to promulgating regulations, and developing standards, ordinances and other criteria necessary to administer an erosion and sediment control program, including program oversight and delegation of enforcement authority to local governments. As a result, the Montgomery County, Department

of Permitting Services is responsible for the review and approval of an erosion and sediment control plan for the proposed project.

Stormwater discharges are addressed under Maryland's Stormwater Management Act. The law requires counties and municipalities to "adopt ordinances necessary to implement a stormwater management program." The Department's programmatic responsibilities are limited to promulgating regulations defining the minimum features of a stormwater ordinance and program oversight. The Department also reviews the stormwater management program of the counties and municipalities and their field implementation and requires corrective action where a program is found deficient. For most projects, compliance with the County-issued stormwater management approval ensures that the project will not degrade water quality, but for projects affecting Tier II waters, the Department will require a separate anti-degradation analysis. In this particular case, however, the Montgomery County is responsible for the review and approval of the project's stormwater management plan.

During the application review process, the Department verifies that appropriate best management practices are incorporated into the sediment and erosion control plans and the stormwater management plans to protect the State's water resources. In order to insure that these practices are contained in the project's final design plans, the applicant will submit approved sediment and erosion control plans and stormwater management plans to the Department prior to the commencement of construction activities authorized by the Permit.

The proposed relocated stream is designed using natural channel design principles and engineered to mimic a natural, stable stream and will achieved the water quality. The project will reconnect the stream to the floodplain. This will allow excess of bank full water flows to the overbank area and slow down during storms. The riparian vegetation will help filter out pollutants from the water. Step pools will increase oxygenation of the water in the stream. These features are estimated to slow the velocity of the water. Slowing the velocity helps improve water quality because it allows more sediment to drop out during storm events before reaching Minnehaha Branch.

The Consultant submitted hydrologic and hydraulic analyses for the existing stream as well as the proposed stream as requested in a letter dated December 14, 2015. The new 100-year floodplain limits are within the applicant's property. The hydrologic and hydraulic analysis of the project indicates that there will not be any increase in 100-year water surface elevation and no increased risk of flooding to adjacent properties.

The consultant, Wetland Studies and Solutions, Inc, has submitted the erosion and sediment control plans along with construction details for all regulated activities as requested in a letter dated December 14, 2015 for the stream relocation and restoration. The applicant submitted a pump around method of stream diversion to make the working site completely dry for stream relocation and restoration which satisfies the Waterway Construction regulations.

Since the final stormwater management plan and erosion & sediment control plans have not been approved from Montgomery County, the permit has been conditioned that no work can be

performed in regulated areas until storm water management plans and the erosion & sediment control plans have been approved by the Montgomery County Department of Permitting Services. These final approved plans must be submitted to the Department for review and approval.

ENDANGERED SPECIES

Once the application is received, it goes through a screening process. This screening process uses Geographical Information System (GIS) to determine the proposed site location and whether or not there are designated resources in the area such as rare, threatened or endangered species. If there are resources identified, the Division sends copies of the proposed plan to the appropriate agencies to review and send comments.

During the screening process no rare, threatened or endangered species were determined to be associated with the limits of this project, refer to screening form, dated 11/2/2015, found in the permit file.

Even though there was no rare, threatened or endangered species hit in screening process, comments regarding snails and other wildlife received from interested persons prompted MDE to forward the comment to Mr. Greg Golden, Project Review Division, Department of Natural Resources (DNR) on 03/22/2016. The response email from Greg Golden received on 5/13/2016, may be found in permit file and is summarized below:

1. DNR does not have survey data for the tributary itself. Perennial reaches of small streams in this area are expected to support a small number of resident fish species. These streams flow to the Potomac River, where many species of resident gamefish, non-gamefish, and migratory species can be found.
2. The project site itself was not within a Sensitive Species Project Review Area (SSPRA) GIS layer, but an SSPRA is indicated to be located to the south and downstream of the site. DNR understands that M-NCPPC and some citizens have brought up the concern for a rare or sensitive species existing downstream. Therefore, they coordinated this issue with their Wildlife and Heritage Service. Their conclusion was there are no firm requirements for protection of any particular species for this site, only the recommendations for downstream aquatic and wetland habitat protection, and advocacy of avoidance and minimization of aquatic and wetland impacts onsite, as practicable, in the project application review.

HISTORIC PRESERVATION

The application was also screened using GIS for historical and archeological resources.

During the screening process historical interests were detected, refer to screening form, dated 11/2/2015, found in the file. A copy of the Joint State/Federal Permit Application was forwarded to Maryland Historical Trust for their review and has been found that there will be no adverse effect due to this undertaking; refer to comment from Trust, dated 12/14/2015, found in the permit file.

MITIGATION

Mitigation is only a consideration in a permit decision after steps have been taken to avoid and minimize impacts to nontidal wetlands and their regulated buffers.

No wetlands were found within the site. As such, no mitigation was required for this project.

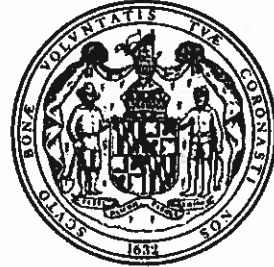
STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION
NONTIDAL WETLANDS AND WATERWAYS PERMIT

PERMIT NUMBER: 15-NT-0340/201561622

EFFECTIVE DATE: July 11, 2016

EXPIRATION DATE: July 11, 2019


PERMITTEE:
6789 Goldsboro LLC
3925 Beech Avenue
Baltimore, Maryland 21211
Gregory B Myers



IN ACCORDANCE WITH ENVIRONMENT ARTICLE §5-503(a) AND §5-906(b), ANNOTATED CODE OF MARYLAND (2007 REPLACEMENT VOLUME), COMAR 26.17.04 AND 26.23.01, AND 26.08.02 AND THE ATTACHED CONDITIONS, 6789 Goldsboro LLC ("PERMITTEE"), IS HEREBY AUTHORIZED BY THE WATER MANAGEMENT ADMINISTRATION ("ADMINISTRATION") TO CONDUCT A REGULATED ACTIVITY IN A NONTIDAL WETLAND, BUFFER, OR EXPANDED BUFFER, AND/OR TO CHANGE THE COURSE, CURRENT OR CROSS-SECTION OF WATERS OF THE STATE, IN ACCORDANCE WITH THE ATTACHED PLANS APPROVED BY THE ADMINISTRATION ON July 8, 2016 ("APPROVED PLAN") AND PREPARED BY Wetland Studies and Solutions, Inc. AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

Relocate and restore a portion of an unnamed tributary to Minnehaha Branch along with the construction of 19-unit townhouses. The work also includes the installation of a storm water outfall in Minnehaha Branch. The work impacts 760 linear feet (7,921 square feet) of stream and 12,007 square feet of 100 year floodplain. The project location is 6789 Goldsboro Road, Bethesda, in Montgomery County.

MD Grid Coordinates: 144733 x 388120



William Seiger, Chief
Waterway Construction Division



Lynn Buhl, Director
Water Management Administration

Attachments: Conditions of Authorization

cc: WMA Compliance Division w/ file
US Army Corps of Engineers, Montgomery County
Michael J. Klebasko, Wetland Studies and Solutions, Inc.

Special Condition

1. No work can be performed in regulated areas until approved storm water management plans and erosion & sediment control plans are received by Department for review and approval.
1. **Validity:** Permit is valid only for use by Permittee. Permit may be transferred only with prior written approval of the Administration. In the event of transfer, transferee agrees to comply with all terms and conditions of Permit.
2. **Initiation of Work, Modifications and Extension of Term:** Permittee shall initiate authorized activities with two (2) years of the Effective Date of this Permit or the Permit shall expire. Permittee may submit written requests to the Administration for (a) extension of the period for initiation of work, (b) modification of Permit, including the Approved Plan, or, (c) not later than 45 days prior to Expiration Date, an extension of the term. Requests for modification shall be in accordance with applicable regulations and shall state reasons for changes, and shall indicate the impacts on nontidal wetlands, streams, and the floodplain, as applicable. The Administration may grant a request at its sole discretion.
3. **Responsibility and Compliance:** Permittee is fully responsible for all work performed and activities authorized by this Permit shall be performed in compliance with this Permit and Approved Plan. Permittee agrees that a copy of the Permit and Approved Plan shall be kept at the construction site and provided to its employees, agents and contractors. A person (including Permittee, its employees, agents or contractors) who violates or fails to comply with the terms and conditions of this Permit, Approved Plan or an administrative order may be subject to penalties in accordance with §5-514 and §5-911, Department of the Environment Article, Annotated Code of Maryland (2007 Replacement Volume).
4. **Failure to Comply:** If Permittee, its employees, agents or contractors fail to comply with this Permit or Approved Plan, the Administration may, in its discretion, issue an administrative order requiring Permittee, its employees, agents and contractors to cease and desist any activities which violate this Permit, or the Administration may take any other enforcement action available to it by law, including filing civil or criminal charges.
5. **Suspension or Revocation:** Permit may be suspended or revoked by the Administration, after notice of opportunity for a hearing, if Permittee: (a) submits false or inaccurate information in Permit application or subsequently required submittals; (b) deviates from the Approved Plan, specifications, terms and conditions; (c) violates, or is about to violate terms and conditions of this Permit; (d) violates, or is about to violate, any regulation promulgated pursuant to Title 5, Department of the Environment Article, Annotated Code of Maryland as amended; (e) fails to allow authorized representatives of the Administration to enter the site of authorized activities at any reasonable time to conduct inspections and evaluations; (f) fails to comply with the requirements of an administrative action or order issued by the Administration; or (g) does not have vested rights under this Permit and new information, changes in site conditions, or amended regulatory requirements necessitate revocation or suspension.
6. **Other Approvals:** Permit does not authorize any injury to private property, any invasion of rights, or any infringement of federal, State or local laws or regulations, nor does it obviate the need to obtain required authorizations or approvals from other State, federal or local agencies as required by law.
7. **Site Access:** Permittee shall allow authorized representatives of the Administration access to the site of authorized activities during normal business hours to conduct inspections and evaluations necessary to assure compliance with this Authorization. Permittee shall provide necessary assistance to effectively and safely conduct such inspections and evaluations.
8. **Inspection Notification:** Permittee shall notify the Administration's Compliance Program at least five (5) days before starting authorized activities and five (5) days after completion. For Allegany, Garrett, and Washington Counties, Permittee shall call 301-689-1480. For Carroll, Frederick, Howard, Montgomery and Prince George's Counties, Permittee shall call 301-665-2850. For Baltimore City, Anne Arundel, Baltimore, Calvert, Charles, and St. Mary's Counties, Permittee shall call 410-537-3510. For Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, Somerset, Talbot, Wicomico and Worcester Counties, Permittee shall call 410-901-4020. If Permit is for a project that is part of a mining site, please contact the Land Management Administration's Mining Program at 410-537-3557 at least five (5) days before starting authorized activities and five (5) days after completion.
9. **Sediment Control:** Permittee shall obtain approval from the Montgomery County Department of Permitting Services for a grading and sediment control plan specifying soil erosion control measures. The approved grading and sediment control plan shall be included in the Approved Plan, and shall be available at the construction site.
10. **Federally Mandated State Authorizations:**
 - X Water Quality Certification:** Water Quality Certification is granted for this project provided that all work is performed in accordance with the authorized project description and associated conditions.
 - Coastal Zone Consistency:** This Permit constitutes official notification that authorized activities are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the Federal Coastal Zone Management Act of 1972, as amended. Activities within the following counties are not subject to this requirement: Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington.

11. **Best Management Practices During Construction:** Permittee, its employees, agents and contractors shall conduct authorized activities in a manner consistent with the Best Management Practices specified by the Administration.
12. **Disposal of Excess:** Unless otherwise shown on the Approved Plan, all excess fill, spoil material, debris, and construction material shall be disposed of outside of nontidal wetlands, nontidal wetlands buffers, and the 100-year floodplain, and in a location and manner which does not adversely impact surface or subsurface water flow into or out of nontidal wetlands.
13. **Temporary Staging Areas:** Temporary construction trailers or structures, staging areas and stockpiles shall not be located within nontidal wetlands, nontidal wetlands buffers, or the 100-year floodplain unless specifically included on the Approved Plan.
14. **Temporary Stream Access Crossings:** Temporary stream access crossings shall not be constructed or utilized unless shown on the Approved Plan. If temporary stream access crossings are determined necessary prior to initiation of work or at any time during construction, Permittee, its employees, agents or contractors shall submit a written request to the Administration and secure the necessary permits or approvals for such crossings before installation of the crossings. Temporary stream access crossings shall be removed and the disturbance stabilized prior to completion of authorized activity or within one (1) year of installation.
15. **Discharge:** Runoff or accumulated water containing sediment or other suspended materials shall not be discharged into waters of the State unless treated by an approved sediment control device or structure.
16. **Instream Construction Prohibition:** To protect important aquatic species, motor driven construction equipment shall not be allowed within stream channels unless on authorized ford crossings. Activities within stream channels are prohibited as determined by the classification of the stream (COMAR 26.08.02.08): Minnehaha Branch is a Use I waterway; in-stream work may not be conducted from March 1 through June 15 inclusive, of any year.
17. **Instream Blasting:** Permittee shall obtain prior written approval from the Administration before blasting or using explosives in the stream channel.
18. **Minimum Disturbance:** Any disturbance of stream banks, channel bottom, wetlands, and wetlands buffer authorized by Permit or Approved Plan shall be the minimum necessary to conduct permitted activities. All disturbed areas shall be stabilized vegetatively no later than seven (7) days after construction is completed or in accordance with the approved grading or sediment and erosion control plan.
19. **Restoration of Construction Site:** Permittee shall restore the construction site upon completion of authorized activities. Undercutting, meandering or degradation of the stream banks or channel bottom, any deposition of sediment or other materials, and any alteration of wetland vegetation, soils, or hydrology, resulting directly or indirectly from construction or authorized activities, shall be corrected by Permittee as directed by the Administration.
20. **Mitigation:** Mitigation is not required for this project

U.S. ARMY CORPS OF ENGINEERS AUTHORIZATION

The U.S. Army Corps of Engineers has reviewed this activity under the Maryland State Programmatic General Permit (MDSPGP-4), as a Category B activity. The federal authorization from U.S. Army Corps of Engineers will be sent separately.

