

Addendum to the Summary of the Basis for Decision
Nontidal Wetlands and Waterways Permit No. 19-NT-0228/201961268

March 14, 2022

On June 11, 2020, the Maryland Department of the Environment (MDE or the Department) issued Nontidal Wetlands and Waterways Permit No. 19-NT-0228/201961268 (Permit) to CREG/Westport I, LLC for the regulated activities associated with construction of a mixed-use business park (known as Abingdon Business Park) on 330 acres located in Abingdon, Harford County. The project consists of warehouse facilities, retail space, restaurants, and a hotel, and includes parking lots, utilities, retail buildings and stormwater management facilities, temporary construction access and dewatering. The permanent impacts associated with the project are: 17,112 square feet of forested (isolated) nontidal wetlands, 32,782 square feet to the nontidal 25-foot wetland buffer, 570 linear feet (6,457 square feet) within an intermittent stream, and 4,618 square feet to the 100-year nontidal floodplain. Temporary impacts include: 120 linear feet (1,573 square feet) to a perennial stream, 230 linear feet (3,235 square feet) of an intermittent stream, and 17,764 square feet within the 100-year nontidal floodplain of a Use I waterway (Haha Branch). On April 28, 2021, the Permit was modified to change the name of the Permittee to BTC III I-95 Logistics Center, LLC.

Within 30 days of Permit issuance, certain petitioners filed a petition for judicial review with the Circuit Court for Harford County; subsequently petitioners filed a motion to remand the permit to MDE for additional public comment. On August 20, 2021, the Circuit Court for Harford County granted the petitioners' motion and remanded the permit MDE to allow the petitioners to provide comments on the Permittee's Tier II Antidegradation Review and Socio-Economic Justification Analysis (SEJ). On September 15, 2021, MDE placed the Tier II Antidegradation Review and SEJ on a 30-day public notice, which was sent to the Interested Persons List. Additionally, MDE added relevant application and SEJ documents to the Department's website for review.

Approximately 75 comments were received as a result of the public notice. A few comments did not reference or were not directly related to the Tier II Antidegradation Review and SEJ, but instead expressed a general opposition to development and the proposed project. Additional comments not directly related to the Tier II Antidegradation Review and SEJ included issues such as property zoning, water quality of the Chesapeake Bay, mitigation of impacts, and the project's compliance with Maryland's nontidal wetlands regulations. The comments that were directly related to the Tier II Antidegradation Review and SEJ focused on the alternative site analysis, avoidance and minimization analysis, and population analysis. These comments were shared with the applicant. The applicant's consultant, Geo-Technology Associates, Inc. (GTA), provided responses to the Department on December 23, 2021. The Department reviewed the comments related to the Tier II Antidegradation Review and SEJ as well as GTA's responses; these comments and the Department's responses are addressed below.

Alternative Site Analysis: The Summary of the Basis for Determination that was attached to the June 11, 2020 Permit included the following discussion of the Alternative Site Analysis:

“Prior to selecting and purchasing the industrial-zoned parcels in Abingdon, Maryland for the proposed Abingdon Business Park, the Applicant evaluated a total of eighteen vacant and available commercial warehouse sites in Harford County during 2018 - 2019. The Applicant had utilized and studied the real-estate data for those eighteen warehouses by viewing two electronic computer-based real-estate industry web pages: Loopnet Solutions (www.loopnet.com) and CoStar Group (costar.com). Both websites are updated monthly with the currently available warehouse data for any given property throughout the United States. The Loopnet site is a free, publicly available commercial real estate browsing webpage and CoStar is subscriber-based for real estate brokers and developers. The purpose of the two sites is to provide a comprehensive inventory of commercial warehouse properties throughout the United States with availability, sale and lease comps, tenant profiles, etc. Utilization of the two websites by the Applicant was performed prior to the public informational hearing and prior to submission of the Application for impacts to the environmental resources at the site (See GTA Email to MDE for Loopnet, March 10, 2020, See Loopnet Sample Research Page, March 10, 2020, and See Websites: Loopnet.com and CoStar.com).

At the public informational hearing, a member of the public provided the Department with several pages of printed text and warehouse website information, dated November 6, 2019. The pages also contained colored photos of available warehouses that were copied from the Loopnet website. Two weeks after the public informational hearing, the Applicant’s consultant, Geo-Technology Consultants, Inc., provided the Department with additional documentation consisting of printed data (text with photos) of warehouse information, aerial site photos, etc. as attachments to their revised Alternative Site Analysis for Abingdon Business Park (See File: Ms. Moon Typed Comments Letter, November 6, 2019, and See GTA, Abingdon Business Park, Alternative Site Analysis, November 18, 2019 to December 5, 2019).

The sites were evaluated to determine their suitability to be modified to meet the current and future warehouse needs of potential clients. A total of seven criteria were used by the Applicant to evaluate the sites: availability, appropriate sizing, site access, development resources, appropriate zoning, resource impacts, and property cost (See Application, Alternative Site Analysis, Page 4, Line 6M, and See GTA Tier II Antidegradation Review, Socio-Economic Justification, Abingdon Business Park, Alternative Site Analysis, Page 2). The 18 sites, built from 1969 to 2020, were evaluated and rejected because they did not meet the above criteria. (See GTA Tier II Antidegradation Review, Socio-Economic Justification, Abingdon Business Park, Alternative Site Analysis, November 18, 2019, Page 2).”

Additionally, the Summary of the Basis for Determination addressed the Alternative Site Analysis in the “Mitigation and Tier II Analysis”:

“The Applicant adequately completed the requirements of the Tier II review for the Abingdon Business Park project in January 2020, with the submission of the Tier II Antidegradation Review Socio-Economic Justification. This report includes a no-discharge alternative analysis of existing site options, as well as sites open for new development, located outside of the affected Tier II watershed of Otter Point Creek 1. The results of this analysis determined that only the preferred site met critical selection criteria. The resource impacts associated with the preferred site, primarily net forest loss and some watershed grading, were minimized through limiting forest clearing to the extent possible, incorporating enhanced and/or redundant erosion and sediment controls, and environmental site design to manage stormwater discharges.”

Addendum Response: The comments received as a result of the September 15, 2021 public notice that referenced the alternative site analysis cited additional properties that should be considered for the project. Some of these properties were outside of the Harford County designated Enterprise Zones or located in other Maryland counties. After further evaluation by the Permittee and review by the Department, none of the additional sites recommended for consideration by the public met the minimum site and location requirements to satisfy the project purpose and need.

Avoidance and Minimization Analysis: Some of the comments received in response to the September 15, 2021 public notice questioned the Avoidance and Minimization Analysis provided as part of the SEJ. The Summary of the Basis for Determination attached to the June 11, 2020 Permit included the following discussion of the Avoidance and Minimization Analysis:

“To meet the avoidance and minimization requirement, the Applicant reduced in size and reconfigured the warehouse buildings on the property. This resulted in a reduction in the number of new interior roads needed and reduced the number of stream crossings throughout the site. At locations where stream crossings could not be avoided, the crossings will be constructed at the narrowest portion of the stream in order to minimize impacts to the resource. The entire site consists of nine commercially-zoned lots (C-1 Zones) on 330 acres, and the dimensions of each developable lot vary in size, shape, and location of regulated resources.

The project will require a total of four road crossings and one sewer line crossing over streams on Edgewood Road, which are due to the configuration of buildings and associated infrastructure at the site. Two road crossings over Haha Branch at the west side of the site will involve construction of a 225-foot-long bridge and will provide improved access along the western boundary of the property. It will be designed to minimize impacts to this resource. The bridge will span a section of the same waterway, as opposed to a culvert, which would have required grading resulting in additional permanent impacts to Haha Branch and the 100-year nontidal floodplain. Two additional road crossings are proposed along Edgewood Road at the east side of the property. Dual culverts (72 inches wide and 60 inches in diameter), are to be installed on intermittent sections of Haha Branch in the central

portion of the site. Installation of the culverts necessitates the addition of rip-rap to prevent scour at the inlets and outlets. Two concrete culverts with wingwalls will be installed along the right side of Edgewood Road and will reduce the need for grading, which will minimize resource impacts. Further, minimization efforts were considered (e.g., a bridge or bottomless arch culvert) but due to channel sinuosity (1.31) and stream meander wavelength (75 feet), there were no other practical options. (See GTA Email Responses for ABP to MDE, March 9, 2020, and See MRA Preliminary Plan: Abingdon Business Park- Series Three, September 9, 2019).

Parking areas were reconfigured to abut the proposed buildings (as opposed to being widely dispersed around the buildings), which reduced the development envelope and minimized the need for additional interior roadways and associated resource crossings. Retaining walls will be constructed to reduce the amount of grading and cut and fill disturbances to regulated resources. These retaining walls will allow for the construction of level pads for warehouses, loading areas, parking areas, and stormwater management facilities within a more confined space on the property.

Impacts to the isolated wetlands were reduced and/or avoided in certain areas by the addition of retaining walls. A total of twelve retaining walls are to be constructed in various locations throughout the site to further minimize and/or completely avoid impacts to nontidal wetlands. In addition, the placement of stormwater management facilities were designed and reconfigured to avoid impacts to connected wetlands and streams; however, two isolated nontidal wetlands will be impacted for siting of a stormwater management facility and a third isolated wetland will be permanently impacted for a stormwater management facility associated with an adjacent parking lot.

The project design for Abingdon Business Park was constrained by the following factors: the location of the existing sanitary sewer tie-ins, site topography, and extent of streams and wetlands, which affected the impacts at the two proposed crossings at the site. The sewer system was designed to avoid additional impacts at the two stream crossings by 1) avoid having to cross Haha Branch by shifting the impacts to a nearby intermittent oxbow stream in order to connect to an existing sewer utility that parallels this waterway, and 2) cross only at the narrowest portion of the intermittent stream on the central portion of the subject site. Significant cut and fill volumes were required to maintain a level pad for the warehouse, loading areas, parking areas, and stormwater management facilities. Also, there is an existing sewer at the site that parallels Haha Branch and is located almost entirely within the 100-year nontidal floodplain. The Applicant's engineers adjusted the new sewer alignment to avoid impacts to the nontidal wetlands located within the same floodplain. (See File, Application: Reduction of Impacts, Page 3, Line 4 A-D, See MDE Written Post-Hearing Notes by Louis Parnes at Office Meeting with GTA/MRA staff and Applicant, December 3, 2019, See GTA Avoidance and

Minimization Analysis, Abingdon Business Park, July 8, 2019, Revised December 5, 2019, See Harford Investors Response to GTA Email, January 10, 2020, and See DNR Website, Program Open Space 101 Information, Copy Downloaded/printed on February 5, 2020).

Comments were made at the public informational hearing and during the public comment period regarding the loss of trees on the property. While forest conservation is a County-delegated program and not within the jurisdiction of MDE, the following information is provided. While approximately 220 acres of trees will be removed from the site, 95 forested acres will be retained and placed into a protective easement in perpetuity by the Applicant. Additionally, the Applicant intends to reforest a total of 7.34 acres throughout the property upon completion of the project. (See File: MRA Forest Conservation Plan, Series Four, Forest Clearing Summary, Onsite Reforestation Summary Box, Forest Retention Summary Box, February 8, 2019, Revised September 19, 2019, Sheet 1-2).

At the November 6, 2019 public informational hearing, comments were received regarding the possibility of the Maryland Department of Natural Resources (DNR) acquiring the property for permanent protection through Program Open Space. The property was brought to the attention of DNR's Program Open Space by the Harford Land Trust; however, to initiate the process, DNR's Program Open Space must be contacted by the property owner. Following the public informational hearing, MDE contacted the Applicant's consultant to see if they were amenable to discussing Program Open Space acquiring the property. Harford Investors, the current property owner, stated they are under contract obligations to CREG/Westport 1, LLC, and cannot consider other offers. (See File: Harford Investors Response to GTA Email, January 10, 2020, and MDE Emails to DNR Dated November 12, and December 6, 2019)."

Addendum Response: The avoidance and minimization analysis previously submitted to the Department enumerated practices the Permittee implemented to minimize impacts to the Tier II watershed of Otter Point Creek 1, including: (1) diverting some stormwater impacts from the Tier II watershed of Otter Point Creek 1 to Haha Branch, (2) implementing environmental site design for remaining impervious surfaces within Otter Point Creek 1; and, (3) reducing the original development footprint. The Permittee has completed 1:1 in-kind mitigation for impacts to Otter Point Creek 1, within the affected Tier II watershed, therefore the Department does not expect any additional economic loss or water quality loss as a result.

Additional comments that were related to the Tier II Antidegradation Review and SEJ were in regard to the origins of the population and income levels referenced in the SEJ and the project site ingress and egress. The population levels cited in the report were provided by Data USA, and income values were provided by www.weichert.com. The proposed ingress/egress of the project site meets Harford County and State regulations. The current configuration will reduce traffic on MD Route 7 by providing an alternative road to connect it to Abingdon Road.

Based on the Department's review of the comments received from the September 15, 2021 public notice for the Tier II Antidegradation Review and SEJ, it is the Department's determination that the Tier II Antidegradation Review and SEJ are complete and no alterations to the Permit are necessary.