



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Horacio Tablada, Secretary
Suzanne E. Dorsey, Deputy Secretary

October 28, 2022

Re: Notice of Permit Decision
Nontidal Wetlands and Waterways Permit Application
Tracking Number 20-NT-2058/202061311

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 the Trappe East Holdings Business Trust, the Water and Science Administration has determined that the application meets the statutory and regulatory criteria necessary for issuance of a Nontidal Wetlands and Waterway Permit. Copies of the Notice of Decision, Permit and the Summary of the Basis for Decision are enclosed with this permit decision. The plan view sheets are available at the MDE website under Public Information, Past Projects heading using the following link: <https://mde.maryland.gov/programs/water/WetlandsandWaterways/Pages/index.aspx>

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 410-537-3766.

A handwritten signature in cursive script that reads "Amanda Sigillito".

Amanda Sigillito, Chief
Nontidal Wetlands Division

/as
Enclosures

FACT SHEET JUDICIAL REVIEW PROCESS

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?

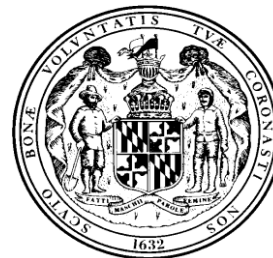
Anyone who meets the threshold standing requirements under federal law and is either the applicant or someone who participated in the public participation process through the submission of written or oral comments, as provided in Environment Article § 5-204, Annotated Code of Maryland. The three traditional 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.

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER AND SCIENCE ADMINISTRATION
WETLANDS AND WATERWAYS PROTECTION PROGRAM
NOTICE OF DECISION

In the Matter of: Trappe East Holdings Business Trust
Nontidal Wetlands and Waterways Permit
Application Number 20-NT-2058/202061311



Hearing Date: April 20, 2021

Hearing Location: Virtual Public Informational Hearing

Decision: Approval

Date: October 28, 2022

The review of the Nontidal Wetlands and Waterways Permit Application in the above-referenced matter has been governed by criteria set forth under Title 5, Subtitle 5, Environment Article, Annotated Code of Maryland, entitled Appropriation or Use of Waters, Reservoirs, and Dams; Subtitle 9, Environment Article, Annotated Code of Maryland, entitled Nontidal Wetlands; and Code of Maryland Regulations (COMAR) Title 26, Subtitle 17, Chapter 04, Construction on Nontidal Waters and Floodplains and Subtitle 23 Nontidal Wetlands. The Nontidal Wetlands and Waterways Permit Application has been reviewed for compliance with Maryland water quality standards under COMAR Title 26, Subtitle 08, Chapter 02 Water Quality.

After examination of all documents and evidence in the above-referenced matter, I have determined that:

1. The applicant has demonstrated a need for impacts to nontidal wetlands and the nontidal wetland buffer;
2. The applicant has minimized impacts to nontidal wetlands and the nontidal wetland buffer;
3. No rare, threatened or endangered species have been identified in the area of impact from the proposed project;
4. No historical or archeological sites have been identified in the area of impact for the proposed project;
5. The project is consistent with State water quality requirements;
6. Public notice and public informational hearing requirements have been satisfied; and,
7. The applicant has demonstrated that the project has independent utility from any potential future projects.

Nontidal Wetlands and Waterways Permit Application 20-NT-2058/202061311 meets the criteria set forth in statute and regulation governing impacts to wetlands and waterways. Nontidal Wetlands and Waterways Permit Number 20-NT-2058/202061311 may be issued by the Water and Science Administration to authorize Trappe East Holdings Business Trust to construct a mixed use residential and commercial subdivision including vehicular road crossings, improvement to existing roads, and stormwater management. Construction of the project requires the removing of vegetation, excavating, filling, grading, and building structures and shall permanently impact 5,441 square feet of forested nontidal wetlands, 9,097 square feet of scrub-shrub nontidal wetlands, 592 square feet of emergent nontidal wetlands, 111,114 square feet of 25-foot nontidal wetland buffer and 13,208 square feet of isolated emergent nontidal wetlands. The project is located at 4313 Ocean Gateway, Trappe, Talbot County.

A brief explanation of the rationale for this decision is contained in the attached Summary of Basis for Decision.

A handwritten signature in cursive script, reading "Heather L. Nelson".

Heather L. Nelson
Program Manager

Wetlands and Waterways Protection Program

SUMMARY BASIS FOR DECISION

Name of Applicant
Trappe East Holdings Business Trust
(Lakeside Village)

Application Number
20-NT-2058/202061311

Project Manager
Chris Pajak

Date of Decision
October 28, 2022

The Environment Article, Annotated Code of Maryland and the Code of Maryland Regulations (COMAR) 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.

The project proposes construction of a new mixed use residential and commercial planned development, which will include vehicular road crossings, improvements to existing roads, utilities, and stormwater management. In the case of this project, 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.

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 on this application was published in the Star Democrat on February 14, 2021. Requests were received for a public informational hearing and a virtual public informational hearing was held on April 20, 2021. Among the comments received through letters from interested persons and at the public informational hearing, the overall concerns were related to environmental site design, avoidance and minimization, alternative site analysis, degradation of water quality to nearby waterways, nontidal wetland mitigation, forest retention, and wastewater treatment. Relevant comments will be addressed in the appropriate sections that follow.

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, Talbot County makes the decision about appropriate land use of the property.

The project's purpose is to construct a mixed-use residential and commercial planned development, to allow for the construction of new homes and commercial opportunities in Trappe, Maryland. Long range planning by Talbot County and its incorporated municipalities is focused on concentrating future growth in towns where it can be served by municipal utilities. The proposed development area encompasses a majority of the Town of Trappe's entire growth area and is expected to accommodate much of the anticipated future growth of Talbot County. Development of the site is subject to the Town of Trappe's regulations and is served by municipal utilities as designated by the Town of Trappe, Talbot County Comprehensive Plans, and the Talbot County Comprehensive Water and Sewerage Plan for more than 15 years. The development area, project density, and land use types were established by the Town of Trappe Council's adoption of the Lakeside Planned Neighborhood zoning district and approval of the PUD plan and Design Guidelines, which are reflected in a Development Rights and Responsibilities Agreement executed by the Town of Trappe in 2006. (See *Joint Federal/State Application for the Alteration of any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland* (Application), July 14, 2020, in file.)

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 using one or more alternative sites in the general area; a reduction in the size, scope, configuration or density would result in less impact; the applicant made a good faith effort to accommodate the site constraints that caused the alternative sites to be rejected; and that the regulated activity is necessary for the project to meet a demonstrated public need.

The Lakeside at Trappe project remains largely unchanged from previous authorizations. The Department originally granted approval for the development on September 7, 2007 and also authorized permit time extensions on June 11, 2009 and June 18, 2014 (Nontidal Wetlands Permit No. 06-NT-2161/200666062). The project site was selected after the applicant evaluated numerous other sites for a master-planned community. The project requirements included: (i) consistency with the municipal Comprehensive Plan; (ii) access to municipal water and sewer services; (iii) adequate developable land outside of sensitive areas and development constraints (Critical Area, wetlands, floodplain, forest, steep slopes, etc.); (iv) sufficient size to accommodate a wide range of residential and commercial uses and public amenities; and (v) availability of land for assemblage to support the project. No other sites in Talbot County

satisfied this criteria. The selected site is consistent with these requirements and its existing, predominantly agricultural land use, accommodates the proposed development in a manner consistent with the Town of Trappe's long-term growth plans, while largely avoiding impacts to environmental features. (See Application)

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 nontidal floodplain are necessary and unavoidable. The project was designed to concentrate development activity in open fields to minimize adverse effects to nontidal wetlands, which are principally confined to forested riparian corridors throughout the site. In limited circumstances where the wetlands exist outside of forests, road improvements have been designed to follow existing farm lanes and access roads to minimize impacts. In a continuing effort to avoid wetland and buffer impacts, the applicant re-evaluated the impacts proposed by the pending application in light of subdivision plat reviews and approvals completed by the Town of Trappe. In several cases, improvements and drainage plans were revised to adjust grading limits and outfall structures to further reduce impacts that were proposed in the original application. Each impact area was evaluated on a case-by-case basis for the potential to avoid and minimize impacts to the greatest extent possible. Specific areas of consideration include, but are not limited to, the previously authorized entrance impact area, the boulevard and traffic circle that extend through the center of the property to gain access to the existing lake, the boulevard as it extends south through the property to connect to Barber Road, the accesses proposed between the north and south spray irrigation fields, and the southeastern portion of the development. (See Application.)

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 Talbot County Soil Conservation District 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 Talbot County Soil Conservation District 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. Approved Erosion and Sediment Control and Stormwater Management Plans, which are acceptable to the Department, have been submitted for the project.

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 Department sends copies of the proposed plan to the appropriate agencies to review and send comments.

The application for the subject project was reviewed by the Maryland Department of Natural Resources (DNR), Wildlife and Heritage Service on October 20, 2020. The DNR determined that the Delmarva fox squirrel, a species with "In Need of Conservation" status in Maryland, is known to occur on or in the immediate vicinity of the project site. General protective measures such as retaining continuous forested acreage, increasing forested buffers, and retaining mast producing trees such as oaks, hickories and beech was recommended. A Forest Conservation Plan was approved by the DNR on June 14, 2021 which includes the preservation of 195 acres of forest and has been recorded in the Queen Anne's County Land Records Office. (Maryland Department of Natural Resources Correspondence, October 20, 2020, May 28, 2021, and November 2, 2021)

HISTORIC PRESERVATION

The application was also screened using GIS for historical and archeological resources. Results of the GIS screening indicated the need for Maryland Historical Trust (MHT) review. According to MHT's records, a Phase I terrestrial archeological survey was completed in April 2003 by the Chesapeake Bay Watershed Archeological Research Foundation, Inc., and the MHT concluded that there would be "no adverse effect" on the areas considered for development. For the regulated nontidal wetland impact areas for this permit, a follow up review of Section 106 of the National Historic Preservation Act was completed by the U.S. Army Corps of Engineers in coordination with the MHT. During this review cultural resources were identified, however,

they are located outside of the permit review area and that no further cultural resources investigations are required. In future build out phases of the Lakeside Development, these cultural resources will need to be considered, following appropriate procedures of the Annotated Code of Maryland. (Maryland Historical Trust Correspondence, October 21, 2021)

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, and nontidal waterways, including the 100-year nontidal floodplain. The proposed project will result in permanent impacts to 5,441 square feet of forested nontidal wetlands, 9,097 square feet of scrub-shrub nontidal wetlands, and 13,800 square feet of emergent nontidal wetlands, resulting in a mitigation requirement of 10,882 square feet of forested nontidal wetlands, 18,194 square feet of scrub-shrub nontidal wetlands, and 13,800 square feet of emergent nontidal wetlands. Purchase of wetland mitigation credits at the Maple Dam Wetland Mitigation Bank was the most appropriate mitigation for the impacts associated with this project. The amount of credits purchased from the Maple Dam Wetland Mitigation Bank was 10,882 square feet of forested nontidal wetlands, 18,194 square feet of scrub-shrub nontidal wetlands, and 13,800 square feet of emergent nontidal wetlands (42,876 square feet total). See Bill of Sale, Exhibit A (in file) and approved by the Mitigation and Technical Assistance Section of the MDE Water and Science Administration.

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER AND SCIENCE ADMINISTRATION
WETLANDS AND WATERWAYS PROTECTION PROGRAM
NONTIDAL WETLANDS AND WATERWAYS PERMIT

PERMIT NUMBER: 20-NT-2058/202061311

EFFECTIVE DATE: October 28, 2022

EXPIRATION DATE: October 28, 2027

PERMITTEE: Trappe East Holdings Business Trust
1960 Gallows Road, Suite 300
Vienna, Virginia 22182
Attention: Michael J. Hellyer



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, Trappe East Holdings Business Trust ("PERMITTEE"), IS HEREBY AUTHORIZED BY THE WATER AND SCIENCE 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 October 27, 2022 ("APPROVED PLAN") AND PREPARED BY RAUCH, INC., AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

To construct a mixed-use residential and commercial subdivision to include vehicular road crossings, improvement to existing roads, and stormwater management located at 4313 Ocean Gateway, Trappe, Talbot County, Maryland. This authorized activity, requiring the removing of vegetation, excavating, filling, grading, and building structures shall permanently impact 5,441 square feet of forested nontidal wetlands, 9,097 square feet of scrub-shrub nontidal wetlands, 592 square feet of emergent nontidal wetlands, and 111,114 square feet of 25-foot nontidal wetland buffer. In addition, authorized activities shall permanently impact 13,208 square feet of isolated emergent nontidal wetlands.

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Heather L. Nelson
Program Manager

Wetlands and Waterways Protection Program

Attachments: Conditions of Permit

cc: Paul Ferreri – MDE Compliance Program w/file
Kyle Kowalczyk – RAUCH, Inc.
Elisa Deflaux – Talbot County Planning and Zoning
Shawn D. Smith – Talbot County Soil Conservation District
Jason Peters – U.S. Army Corps of Engineers

Special Condition:

1. Permittee shall, prior to commencement of construction, submit to the Administration for review final Erosion and Sediment Control Plans. The plans shall include the limits of nontidal wetlands, wetland buffers, and waters of the State (including the 100-year nontidal floodplain), limits of disturbance, "Best Management Practices," and a sequence of construction.

General Conditions:

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 in waterways, including streams and the 100-year floodplain, within two (2) years of the Effective Date of this Permit or the Permit shall expire. [Annotated Code of Maryland, Environment Article 5-510(a)-(b) and Code of Maryland Regulations 26.17.04.12]. 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 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. (Annotated Code of Maryland, Environment Article 5-510(c), and Code of Maryland Regulations 26.17.04.12, and Annotated Code of Maryland, Environment Article 5-907 and Code of Maryland Regulations 26.23.02.07).
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 Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico and Worcester Counties, Permittee shall call 410-901-4020
9. **Sediment Control:** Permittee shall obtain approval from the Talbot County Soil Conservation District 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. **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.
11. **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.
12. **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.
13. **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.

14. **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.
15. **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): N/A is a Use N/A waterway; in-stream work may not be conducted from N/A through N/A, inclusive, of any year.
16. **Instream Blasting:** Permittee shall obtain prior written approval from the Administration before blasting or using explosives in the stream channel.
17. **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.
18. **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.
19. **Mitigation:** The Permittee is required to mitigate for permanent impacts to 5,441 square feet of forested nontidal wetlands, 9,097 square feet of scrub-shrub nontidal wetlands, and 13,800 square feet of emergent nontidal wetlands by creating the equivalent of at least 10,882 square feet of forested nontidal wetlands, 18,194 square feet of scrub-shrub nontidal wetlands, and 13,800 square feet of emergent nontidal wetlands. The Permittee satisfied the mitigation requirement through the purchase of the equivalent of 42,876 square feet of wetland mitigation credits at the Maple Dam Wetland Mitigation Bank.

FEDERALLY MANDATED STATE AUTHORIZATIONS

The State of Maryland issued a Water Quality Certification to the U.S. Army Corps of Engineers for projects receiving federal authorization under the Maryland State Programmatic General Permit, Regional General Permit for Chesapeake Bay Total Maximum Daily Load (TMDL) Activities and non-suspended Nationwide Permits. In addition, as applicable, this Permit constitutes the State's concurrence with the Applicant's certification that the activities authorized herein are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act of 1972, as amended. Activities in the following counties are not subject to the Maryland Coastal Zone Management requirement: Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington.

U.S. ARMY CORPS OF ENGINEERS AUTHORIZATION

The U.S. Army Corps of Engineers has reviewed this activity and:

Granted authorization under the Maryland State Programmatic General Permit (MDSPGP-6), as a Category A activity. The terms and conditions of the MDSPGP-6 as outlined in the documents found on the Maryland Department of the Environment's website, https://mde.maryland.gov/programs/Water/WetlandsandWaterways/Pages/MDSPGP6_conditions.aspx, should be followed when performing the authorized work, or

Will issue a Category B authorization or Individual Permit directly to the Permittee.

**BEST MANAGEMENT PRACTICES FOR WORKING IN
NONTIDAL WETLANDS, WETLAND BUFFERS,
WATERWAYS, AND 100-YEAR FLOODPLAINS**

- 1) No excess fill, construction material, or debris shall be stockpiled or stored in nontidal wetlands, nontidal wetland buffers, waterways, or the 100-year floodplain.
- 2) Place materials in a location and manner which does not adversely impact surface or subsurface water flow into or out of nontidal wetlands, nontidal wetland buffers, waterways, or the 100-year floodplain.
- 3) Do not use the excavated material as backfill if it contains waste metal products, unsightly debris, toxic material, or any other deleterious substance. If additional backfill is required, use clean material free of waste metal products, unsightly debris, toxic material, or any other deleterious substance.
- 4) Place heavy equipment on mats or suitably operate the equipment to prevent damage to nontidal wetlands, nontidal wetland buffers, waterways, or the 100-year floodplain.
- 5) Repair and maintain any serviceable structure or fill so there is no permanent loss of nontidal wetlands, nontidal wetland buffers, or waterways, or permanent modification of the 100-year floodplain in excess of that lost under the originally authorized structure or fill.
- 6) Rectify any nontidal wetlands, wetland buffers, waterways, or 100-year floodplain temporarily impacted by any construction.
- 7) All stabilization in the nontidal wetland and nontidal wetland buffer shall consist of the following species: Annual Ryegrass (*Lolium multiflorum*), Millet (*Setaria italica*), Barley (*Hordeum* sp.), Oats (*Uniola* sp.), and/or Rye (*Secale cereale*). These species will allow for the stabilization of the site while also allowing for the voluntary revegetation of natural wetland species. Other non-persistent vegetation may be acceptable, but must be approved by the Nontidal Wetlands and Waterways Division. **Kentucky 31 fescue shall not be utilized in wetland or buffer areas.** The area should be seeded and mulched to reduce erosion after construction activities have been completed.
- 8) After installation has been completed, make post-construction grades and elevations the same as the original grades and elevations in temporarily impacted areas.
- 9) To protect aquatic species, in-stream work is prohibited as determined by the classification of the stream:
 - Use I waters: In-stream work shall not be conducted during the period March 1 through June 15, inclusive, during any year.
 - Use III waters: In-stream work shall not be conducted during the period October 1 through April 30, inclusive, during any year.
 - Use IV waters: In-stream work shall not be conducted during the period March 1 through May 31, inclusive, during any year.
- 10) Stormwater runoff from impervious surfaces shall be controlled to prevent the washing of debris into the waterway.
- 11) Culverts shall be constructed and any riprap placed so as not to obstruct the movement of aquatic species, unless the purpose of the activity is to impound water.