



Maryland
Department of
the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor
Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

May 10, 2019

Re: Notice of Permit Decision
Nontidal Wetlands and Waterways Permit Application
Tracking Number 18-NT-2013/201860224

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 Somerset County Recreation and Parks, Maryland Route 413 Bike Path, 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 permit and the Summary of the Basis for Decision are enclosed with this permit decision. The impact plates can be reviewed online at: <http://mde.maryland.gov/programs/Water/WetlandsandWaterways/documents/201860224siteplans.pdf> . To receive hard copies of the impact plates, please contact Amanda Sigillito, Chief, Nontidal Wetlands Division, Maryland Department of the Environment, 1800 Washington Boulevard, Baltimore, MD 21230.

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 of 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 Amanda Sigillito, Chief, Nontidal Wetlands Division at 410-537-3766.

Sincerely,

A handwritten signature in black ink, appearing to read "Denise M. Keehner".

Denise M. Keehner, Program Manager
Wetlands and Waterways Program

as/DK

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.

SUMMARY BASIS FOR DECISION

Name of Applicant
Somerset County - Recreation and Parks
Maryland Route 413 Bike Path

Application Number
18-NT-2013/201860224

Project Manager
Chris Pajak

Date of Decision
May 6, 2019

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 of a hiker/biker trail along an abandoned rail bed adjacent to northbound Maryland Route 413 from Hinman Lane, Crisfield to Davis Lane, Marion Station, Somerset County, Maryland, 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 *Somerset Herald* on August 8, 2018. The Department did not receive a request to hold a public informational hearing on this application.

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, Somerset County makes the decision about appropriate land use of the property. The project's purpose is to provide a hiker/biker trail along northbound Maryland Route 413 in Somerset

County. This project is funded through a grant as part of the Rails to Trails Program and improves pedestrian and bicycle safety along the roadway. (See *Joint Federal/State Application for the Alteration of any Floodplain, Waterway, Tidal or Nontidal Wetlands in Maryland* (Application), February 6, 2018, 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 project is to use the existing rail bed for the proposed trail. There is no rail bed on the opposite side of Maryland Route 413, land use on the southbound side of the road includes many private properties, and nontidal wetlands are also found along that side of the road. (See Application, in file)

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 project designers and natural resources scientists worked closely together to avoid and minimize impacts to nontidal wetlands during project design. Environmental Site Design (ESD) swales were located to avoid impacts to existing wetlands. The alignment of the trail was shifted in several locations through field walks to verify the centerline of the alignment in relation to adjoining wetlands in order to reduce impacts and avoid permanent impacts to wetlands on both sides of the trail. Designers adjusted the alignment profile to reduce cut impacts to wetlands and shifted the trail left to right during design to avoid wetlands. The proposed trail was designed following the Maryland State Highway Administration, Bicycle Policy and Design Guidelines, 2015. Based on this guidance, the minimum path width is 10 feet. The typical section for this trail is the minimal standard required by the guidance, which is 10 feet wide with a 2 foot clear zone on each side. This configuration was established for pedestrian and bicycle safety. (See Application, in file.)

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 Somerset 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 Somerset 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.

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. The application for the subject project was screened and no rare, threatened or endangered species, or their habitat were identified within the project area (See Permit Application Screening Form, Maryland Department of the Environment, February 12, 2018, in file.)

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. On March 15, 2018 confirmation was received from the MHT indicating that the project would have no adverse effects on historic properties. No other comments were received.

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 floodplain. The proposed project will result in permanent impacts to 15,102 square feet of forested nontidal wetlands and 6,433 square feet of emergent nontidal wetlands, resulting in a mitigation requirement of 30,204 square feet of forested nontidal wetlands and 6,433 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 impacts will occur in both the primary and secondary service areas for the Maple Dam Wetland Mitigation Bank. An additional 1.5:1 ratio was required for the mitigation requirements being fulfilled from the secondary service area. The amount of credits purchased from the Maple Dam Wetland Mitigation Bank was 42,902 square feet of forested nontidal wetlands and 8,320 square feet of emergent nontidal wetlands (51,222 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.

**DEPARTMENT OF THE ENVIRONMENT
WATER AND SCIENCE ADMINISTRATION
NONTIDAL WETLANDS AND WATERWAYS PERMIT**

PERMIT NUMBER: 18-NT-2013/201860224

EFFECTIVE DATE: May 10, 2019

EXPIRATION DATE: May 10, 2024

PERMITTEE: Somerset County, Maryland – Recreation and Parks
Maryland Route 413 Bike Path
30290 Sam Barnes Road
Westover, Maryland 21871
Attention: Clint Sterling



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, Somerset County/Maryland Route 413 Bike Path ("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 April 30, 2019 ("APPROVED PLAN") AND PREPARED BY KCI Technologies AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

To construct a hiker/biker trail along an abandoned railroad bed adjacent to northbound Maryland Route 413 from Hinman Lane to Davis Lane, extending from Crisfield to Marion Station, Somerset County, Maryland. This authorized activity, requiring the removal of vegetation, grading and the construction of a recreational hiker/biker trail, shall permanently impact: 15,102 square feet of forested nontidal wetlands; 6,433 square feet of emergent nontidal wetlands; and, 280,766 square feet of the 25-foot nontidal wetlands buffer. In addition, authorized activities shall temporarily impact: 79,840 square feet of forested nontidal wetlands; 122,886 square feet of emergent nontidal wetlands; and, 450,497 square feet of 25-foot nontidal wetlands buffer. To compensate for the loss of the permanent nontidal wetlands, the Permittee has purchased mitigation credits at the Maple Dam Mitigation Bank, Dorchester County, Maryland. (See Condition 19 for the specific wetland mitigation requirement for this project).

Denise M. Keehner
Program Manager
Wetlands and Waterways Program

Attachments: Conditions of Permit

cc: Paul Ferreri – MDE Compliance Program w/file
Shawn Gil – U.S. Army Corps of Engineers, Baltimore District
Jennifer Bird – KCI Technologies, Inc.
Larry Fykes - Somerset County Soil Conservation District

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 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 and Materials 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 Somerset 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 to 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 15,102 square feet of forested nontidal wetlands and 6,433 square feet of emergent nontidal wetlands by creating the equivalent of at least 30,204 square feet of forested nontidal wetlands and 6,433 square feet of emergent nontidal wetlands. The Permittee satisfied the mitigation requirement through the purchase of the equivalent of 36,637 square feet of wetland mitigation credit at the Maple Dam Wetland Mitigation Bank. The impacts will occur in both the primary and secondary service areas for the Maple Dam Wetland Mitigation Bank. An additional 1.5:1 ratio was required for the mitigation requirements being fulfilled from the secondary service area. The amount of credits purchased from the Maple Dam Wetland Mitigation Bank was 42,902 square feet of forested nontidal wetlands and 8,320 square feet of emergent nontidal wetlands (51,222 square feet total).

FEDERALLY MANDATED STATE AUTHORIZATIONS

The Maryland Department of the Environment has issued an Individual Water Quality Certification (attached hereto) for these authorized activities. This Water Quality Certification is issued under authority of Section 401 of the Federal Water Pollution Control Act and its Amendments of the Environment Article, Sections 9-313 – 9-323, inclusive, Annotated Code of Maryland. A copy of this required Certification has been sent to the U.S. Army Corps of Engineers.

U.S. ARMY CORPS OF ENGINEERS AUTHORIZATION

The U.S. Army Corps of Engineers (Corps) has reviewed this activity and will be granting authorization through the issuance of an Individual Permit. This permit will be forwarded directly to the Permittee, upon issuance by the Corps. The terms and conditions of the forthcoming permit shall be followed when performing the authorized work.

**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.

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER AND SCIENCE ADMINISTRATION

WATER QUALITY CERTIFICATION
for
NONTIDAL WETLANDS AND WATERWAYS

CERTIFICATION NUMBER: 18-NT-2013/201860224

ISSUED TO: Somerset County, Maryland – Recreation and Parks
Maryland Route 413 Bike Path
30290 Sam Barnes Road
Westover, Maryland 21871
Attention: Clint Sterling



EFFECTIVE DATE: May 10, 2019

EXPIRATION DATE: May 10, 2024

To construct a hiker/biker trail along an abandoned railroad bed adjacent to northbound Maryland Route 413 from Hinman Lane to Davis Lane, extending from Crisfield to Marion Station, Somerset County, Maryland. This authorized activity, requiring the removal of vegetation, grading, and the construction of a recreational hiker/biker trail, shall permanently impact: 15,102 square feet of forested nontidal wetlands, 6,433 square feet of emergent nontidal wetlands, and 280,766 square feet of the 25-foot nontidal wetlands buffer. In addition, authorized activities shall temporarily impact: 79,840 square feet of forested nontidal wetlands, 122,886 square feet of emergent nontidal wetlands and 450,497 square feet of the 25-foot nontidal wetlands buffer.

This Water Quality Certification is issued under authority of Section 401 of the Federal Water Pollution Control Act and its Amendments and the Environment Article, Sections 9-313 - 9-323, inclusive, Annotated Code of Maryland. A copy of this required Certification has been sent to the Corps of Engineers. This Certification does not relieve the applicant of responsibility for obtaining any other approvals, licenses or permits in accordance with federal, State, or local requirements and does not authorize commencement of the proposed project. The Maryland Department of the Environment has determined from a review of the plans that the project described above will not violate Maryland's water quality standards, provided that the following conditions are satisfied.

The Certification Holder shall comply with the following conditions:

GENERAL CONDITIONS

1. X The proposed project shall be constructed in a manner which will not violate Maryland's Water Quality Standards as set forth in COMAR 26.08.02. The applicant is to notify the Water and Science Administration's Compliance Program, at 410-537-3510, ten (10) days prior to commencing work. If project is part of a mining site, please contact the Land and Materials Administration's Mining Program at 410-537-3557 at least ten (10) days prior to commencing work. Verbal notification is to be followed by written notice within ten (10) days.
2. X The proposed project shall be constructed in accordance with the approved final plan and its revisions.

3. All fill and construction materials not used in the project shall be removed and disposed of in a manner which will prevent their entry into waters of this State.
4. The certification holder shall notify the Water and Science Administration, Nontidal Wetlands Division, in writing, upon transferring property ownership or responsibility for compliance with these conditions to another person. The new owner/operator shall request, in writing, transfer of this water quality certification to his/her name.
5. The certification holder shall allow the Water and Science Administration or its representative to inspect the project area at reasonable times and to inspect records regarding this project.

SPECIAL CONDITIONS

1. The conditions of Nontidal Wetlands and Waterways Permit No. 18-NT-2013/201860224 incorporated, by reference, into this Water Quality Certification.
2. The disturbance of the bottom of the water and sediment transport into adjacent State waters shall be minimized. The Permittee shall obtain and certify compliance with a grading and sediment control plan, which has been approved by the, Somerset County Soil Conservation District. The approved plans shall be available at the project site during all phases of construction.
3. Work in waters may not be conducted from N/A through N/A inclusive, of any year.
4. Stormwater runoff from impervious surfaces shall be controlled to prevent the washing of debris into the waterway. The natural vegetation shall be maintained and restored when disturbed or eroded. Stormwater drainage facilities shall be designed, implemented, operated, and maintained in accordance with the applicable approving authority.
5. Stormwater Management Plan: The certification holder shall provide to the Administration a stormwater management plan including cross sections, and other applicable drawings which incorporates effective pollutant removal strategies in uplands to treat the required volume of runoff from impervious surfaces prior to the release of stormwater into state waters, tidal wetlands, or nontidal wetlands. There shall be no discharge of untreated stormwater to State waters and tidal and nontidal wetlands. The plan shall be provided by the Somerset County Recreation and Parks Complex and shall be implemented by the Somerset County Soil Conservation District.
6. Nontidal Wetland/Waters Mitigation Requirement: To compensate for the loss of the permanent nontidal wetlands, the Permittee has purchased mitigation credits (2:1 for Palustrine Forested Nontidal Wetlands and 1:1 for Palustrine Emergent Nontidal Wetlands) at the Maple Dam Mitigation Bank, Dorchester County, Maryland.
7. The certification holder shall provide a stream restoration plan for review and approval by _____. The approved plan shall be implemented by _____.
8. At least one culvert in every culverted stream crossing shall be depressed at least one foot below the existing stream bottom under the low flow condition. A low flow channel shall be provided through any riprap structures. The culvert shall be constructed and any riprap placed so as not to obstruct the movement of aquatic species.
9. Stormwater Discharges: Stormwater discharges from ponds, stormwater management outfalls, and stormwater facilities shall have a velocity of no greater than four feet per second for the two year storm in order to prevent erosion in the receiving water or wetland.

10. ___ Future Stormwater Discharges: Future stormwater discharges to authorized pond(s) are prohibited unless the required volume of stormwater runoff from impervious surfaces is managed in uplands for effective pollutant removal.
11. ___ Stormwater Detention Ponds: Authorized stormwater detention or extended detention ponds shall have a maximum detention time of ___ for temporarily impounded stormwater volumes in excess of any permanent pool elevations or pond bottom.
12. ___ Integrated Pest Management: An Integrated Pest Management Plan for any proposed golf course shall be developed in accordance with the University of Maryland, Department of Entomology.
13. ___ Stormwater Drainage Facilities: Stormwater management and drainage facilities shall be Maintained in accordance with the requirements of the applicable approving authority.
14. ___ Use of Stormwater Management Facility: Stormwater management facility may not be used until all stabilization is completed and all temporary sediment control devices have been removed.
15. ___ Maintenance of Stormwater Management Facility: If maintenance of a stormwater management facility is the responsibility of a homeowner's association, maintenance shall be conducted according to County specifications.

Failure to comply with these conditions shall constitute reason for suspension or revocation of the Water Quality Certification and legal proceedings may be instituted against the certification holder in accordance with the Annotated Code of Maryland. In granting this certification, the Department reserves the right to inspect the operations and records regarding this project at anytime.

CERTIFICATION APPROVED



Denise M. Keehner
Program Manager
Wetlands and Waterways Program

cc: Paul Ferreri – MDE Compliance Program
Jennifer Bird – KCI Technologies, Inc.
Shawn Gil – U.S. Army Corps of Engineers
Larry Fykes - Somerset County Soil Conservation District