SUMMARY BASIS FOR DECISION

Name of Applicant:
Maryland Transportation Authority (MDTA)

Application Number:
24-NT-0163/202461017

Project Manager: Emily Dolbin

Date of Decision: October 15, 2025

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 the 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 the Francis Scott Key Bridge Rebuild (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. Regulated activities are associated with replacement of the Francis Scott Key Bridge over the Patapsco River, which is located on I-695 from southwest of Broening Highway to northeast of the B&O Railroad crossing, in Baltimore City, and Baltimore and Anne Arundel Counties. Activities associated with impacts to regulated resources include bridge construction, pier installation, maintenance access road construction, roadway grading, drainage improvements, construction access and erosion and sediment control measures. This approval authorizes permanent impacts to 135,789 square feet (3.12 acres) of emergent nontidal wetland, 101,681 square feet (2.34 acres) of the 25-foot nontidal wetland buffer, 112 linear feet (337 square feet) of a perennial tributary to the Patapsco River and 187 linear feet (599 square feet) of an intermittent tributary to the Patapsco River. The proposed Project has requested approvals prior to final designs being completed. Due to the design-build nature of this Project, the design is subject to change. Project design plans and any changes relating to impacts shall be reviewed and approved by the Department as required by Special Condition No. 6 (Construction Plan Submittals) of the Nontidal Wetlands and Waterways Permit [Permit] (see *Joint Federal/State Application for the Alteration of Any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland* [Application] dated July 17, 2024 and Amendments, and Permit dated October 15, 2025, in file).

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 impacts associated with the original Application submitted on July 17, 2024 did not trigger a public notice comment period. However, due to an increase in proposed permanent nontidal wetland impacts after submission of Application amendment dated July 3, 2025, the Department put the nontidal wetland and waterway Application on public notice. The notice was published in the *Baltimore Sun* on August 7, 2025, the *Capital Gazette* on August 8, 2025, and *The Dundalk Eagle* on August 14, 2025. The public notice comment period occurred between August 6, 2025 and September 6, 2025. The public informational hearing was held on August 20,

2025 at the North Point Edgemere Volunteer Fire Department, 7500 North Point Rd, Baltimore, MD 21219. Copies of the plans and supporting project information were also available in person upon request at the Sollers Point Branch of the Baltimore County Public Library, 323 Sollers Point Rd, Dundalk, MD 21222 and the Enoch Pratt Free Library Cherry Hill Branch, 606 Cherry Hill Rd, Baltimore, MD 21225. Interested parties had the opportunity to provide comments orally at the hearing, or in writing or electronically to the Department (see Application dated July 17, 2024 and Amendments, Public Notice Letter dated August 6, 2025, and Newspaper Ad Receipts dated August 6, 2025, in file).

During the public informational hearing, one citizen provided testimony expressing concern about the timeline of the bridge rebuild. There was no opposition or concern regarding nontidal wetland or waterway impacts at the public informational hearing. The Chesapeake Bay Foundation (CBF) sent comments on September 4, 2025 via email acknowledging the importance of the bridge rebuild but expressing concern about environmental tradeoffs and the suitability of the Final Compensatory Mitigation Plan. The CBF stated it has opportunities in this project to engage in on-site wetland creation and restoration that would provide local habitat and ecosystem service benefits within the footprint of the new bridge itself. CBF would like MDE to require the Applicant to reconsider its nontidal mitigation to provide innovative stormwater practices including under-bridge constructed wetlands or bioswales and floating wetlands around the bridge's support columns. See the Mitigation section for more information regarding MDTA's justification for the proposed nontidal mitigation and response to CBF's comments (see Public Hearing Transcripts dated August 20, 2025 and Public Comments 2025, in file).

Comments raised at the public informational hearing and during the public comment period that are within the Department's purview are addressed in the appropriate sections that follow. Certain issues raised during the hearing are not directly within the scope of the Department's wetlands and waterways Application review (see Public Hearing Transcripts dated August 20, 2025 and Public Comments 2025, in file).

PROJECT PURPOSE AND NEED

For the Department to authorize impacts to nontidal wetlands, their regulated buffers and waterways, including the 100-year nontidal floodplain, 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, Baltimore City and Baltimore and Anne Arundel Counties make the decision about the appropriate land use of these properties.

The Project's purpose is to replace the Francis Scott Key Bridge over the Patapsco River that was in operation prior to the March 26, 2024 collapse. The replacement bridge will meet current roadway and bridge design and modern construction standards, and navigational clearance requirements. The needs of the Project are to expedite restoration of local connectivity between Curtis Bay and Dundalk as well as regional mobility and the interstate transportation network (see Application dated July 17, 2024 and Amendments, in file).

In 2022, the Francis Scott Key Bridge had an average annual daily traffic volume of approximately 33,200 vehicles per day. Following the collapse, this daily volume of traffic is forced to find alternative routes contributing to higher levels of traffic on available interstate transportation network routes including on I-95, I-895 and I-695 throughout Baltimore. In April 2024, I-95 and I-895 experienced 21,000 collective hours of additional delay each day of the work week compared to April 2023. Arterial routes such as MD 2, MD 710, MD 173, MD 150, MD 151 and other local roadways have also experienced increased detour traffic, including increased truck traffic (see Application dated July 17, 2024 and Amendments, in file).

The Francis Scott Key Bridge was the only route throughout the Baltimore metro, Port area and I-95 corridor for over-height and hazardous material loads as they are prohibited from using the I-95 and I-895 Harbor tunnels. These vehicles and loads are now required to use less efficient alternative routes such as the western section of I-695 around Baltimore which adds approximately 25 miles of additional vehicle miles traveled. The Francis Scott Key Bridge also served as a detour for traffic incidents on I-95 and I-895 through Baltimore, and during nighttime closures for I-95 and I-895 tunnel maintenance and repair. Additionally, a study conducted by the Maryland Chamber of Commerce estimated the economic cost of the bridge collapse to the Port of Baltimore is estimated at $15 million per day (see Application dated July 17, 2024 and Amendments, in file).

The original Francis Scott Key Bridge consisted of two 12-foot lanes in each direction with 2-foot wide shoulders and 185 feet of vertical clearance. The bridge is proposed to be updated to modern construction standards with a minimum shoulder width of 4 feet and a vertical clearance of a minimum clearance of 230 feet above the mean high water elevation to accommodate the trend towards larger vessels and cargo ships (see Application dated July 17, 2024 and Amendments, in file).

The Department has determined that the Applicant has satisfied the requirements for the project purpose and need.

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.

Initially, the Francis Scott Key Bridge was proposed to be reconstructed on the original alignment to minimize environmental impacts. However, during test probing investigations, obstructions located up to 60 feet below the mudline were found to be in conflict with the piles of the on-alignment bridge piles. Dredging associated with obstruction removal has the potential to cause environmental impacts from bottom disturbance and release of buried contaminants. To avoid those environmental impacts, associated project schedule delays and an increase in total project cost, MDTA explored shifting the bridge alignment (see Francis Scott Key Bridge Avoidance and Minimization Summary, in file).

Shifting the alignment to the northwest was not practical because of the overhead and underground utilities located northwest of the original alignment and due to MDTA's narrow right-of-way on the south side near the Hawkins Point side of the bridge. A northwest alignment shift would require purchase of additional right-of-way and invalidate the Project's emergency National Environmental Policy Act (NEPA) approval. Thus, a southeast shift as the Project currently proposes, was the preferred option (see Francis Scott Key Bridge Avoidance and Minimization Summary, in file).

The Department has determined that the Applicant has satisfied the requirements for the project alternatives analysis.

AVOIDANCE AND MINIMIZATION

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

Avoidance and minimization of nontidal resources were implemented to the extent possible to accomplish project objectives. Once the southeast shift was decided upon, MDTA explored multiple options for minimizing permanent impacts to nontidal wetlands, wetland buffers and waterways while still accommodating structural elements of the southern approach and providing for future maintenance of the bridge on final alignment. A finger causeway approach to bridge construction was explored; however, toe of fill for finger causeways overlapped with adjacent piers, which did not result in reduction of impacts. Using temporary fill to support construction and restoring the wetland under the constructed south bridge approach following construction was also considered to minimize impacts. However, this approach would not facilitate future maintenance and inspection access. Additionally, due to the amount of time the temporary fill would be in place, the wetland impacts would be considered permanent despite their ultimate removal. MDTA will evaluate agency recommendations for avoidance and minimization and implement them wherever practicable throughout the design-build process as required by Special Condition 1 (Avoidance and Minimization) of the Permit (see Francis Scott Key Bridge Avoidance and Minimization Summary, in file).

The design is subject to change due to the design-build nature of this Project and any changes relating to impacts shall be reviewed and approved by the Department. The Permit requires the designer and contractor continue to work together to avoid and minimize impacts throughout final design and construction. Best management practices for erosion and sediment control will be used to ensure sediment from construction does not enter adjacent wetlands or streams to the extent practicable. Several conditions have been included in the Permit in order to continue avoidance and minimization measures including Special Condition Nos. 1 (Avoidance and Minimization), 4 (Independent Environmental Monitor), 6 (Construction Plan Submittals) and 7 (Construction Debris) (see Permit dated October 15, 2025, in file).

The Department has determined that the Applicant has and will continue to minimize impacts to nontidal wetlands, their regulated buffers, and waterways to the extent practicable.

WATER QUALITY

Erosion and sediment control (ESC) measures and stormwater management practices are required by regulation in order 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 or others with delegated authority to review and approve ESC 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 ESC program, including program oversight and delegation of enforcement authority to local governments or state programs. The MDE Sediment and Stormwater Plan Review Division 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 of 2007. 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 MDE Sediment and Stormwater Plan Review Division is responsible for the review and approval of the Project's stormwater management plan, and the project does not impact Tier II waters.

MDTA proposes to incorporate appropriate best management practices during construction to meet State water quality standards, in order to address water quality and water quantity within the Project area. Stormwater Management for the project will be provided in accordance with Maryland's Stormwater Management Act requirements. Environmental Site Design practices including grass swales, bio-swales and submerged gravel wetland treatment systems have been incorporated into the Project to the maximum extent possible. During the application review process, the Department verifies that appropriate best management practices are incorporated into the ESC plans and the stormwater management plans to protect the State's water resources. All disturbed areas within the Project's limits of disturbance will be protected by ESC measures and will be fully stabilized in accordance with Department regulations. In order to ensure that these practices are contained in the project's final design plans, the Applicant will submit approved ESC plans and stormwater management plans to the Department prior to their implementation.

The portion of the Project subject to permit decision involves impacts to designated Use I (Water Contact Recreation and Protection of Nontidal Warmwater Aquatic Life) waterways, including unnamed tributaries to the Patapsco River. COMAR 26.08.02.02 specifies that Use I waters uses include water contact sports; play and leisure time activities where individuals may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout), other aquatic life, and wildlife; agricultural water supply; and industrial water supply. By comment letter provided on June 3, 2024, the Maryland Department of Natural Resources (DNR) Environmental Review Program stated that anadromous fish species, including yellow perch, herring species, and white perch have been documented near the Project site. In order to protect important aquatic species, no in-stream work is permitted in Use I streams during the period of February 15 through June 15, inclusive, during any year. DNR also recommended several best management practices to protect wetlands, waterways, and fisheries resources including avoiding use of heavy equipment, disposal of excavated material, or other construction activities to the extent possible within wetland areas, preventing runoff and debris from entering surface waters, given the presence of numerous sensitive species in the watershed, implementing instream work restrictions, and using stringent sediment and erosion control measures and other best management practices typically used for protection of stream resources. By letter dated August 8, 2025, the DNR Environmental Review Program reviewed the Application amendment dated July 3, 2025 and provided comments related to the tidal portion of this project. DNR did not provide any additional comments on the nontidal portion of this project. Special Condition Nos. 3 (Water Quality Monitoring Plan), 4 (Independent Environmental Monitor), 6 (Construction Plan Submittals) and 7 (Construction Debris) have been added to the Permit to meet water quality standards (see Application dated July 17, 2024, Permit dated October 15, 2025 and DNR Comment Letter dated August 8, 2025, in file).

The Department has determined that the project is consistent with State water quality requirements. Portions of the project qualify for authorization by the U.S. Army Corps of Engineers under the Maryland State Programmatic General Permit-6 (MDSPGP-6); therefore, those activities (such as temporary trestles and temporary piles) are certified under the granted Certification for the Maryland State Programmatic General Permit-6, NAB-2020-00415, SPN-20-66 (20-WQC-0051). Portions of the project qualify under Nationwide Permit 23; however, these activities (such as the permanent fill for the bridge rebuild) are above the threshold for the Water Quality Certification (WQC) Nationwide Permit Reissuance, SPN-20-62 [20-WQC-0050(R1)], and those activities are granted certification under individual Certification (24-WQC-0028) granted on December 9, 2024. In addition, this project received a Federal Consistency determination on December 9, 2024 that the activities authorized are consistent with the Maryland Coastal Zone

Management Program, as required by Section 307 of the Coastal Zone Management Act of 1972, as amended (see WQC Request dated July 1, 2024 and 24-WQC-0028 dated December 9, 2024, in file).

ENDANGERED SPECIES

After receipt, each application enters a screening process. This screening process uses a 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 (RTE) species. If there are resources identified, the Department sends copies of the proposed plan to the appropriate agencies to review and comment. The GIS form for the Project indicated that the Project may be in the vicinity of RTE species, and the Applicant coordinated with appropriate resource agencies as discussed below (see Application dated July 17, 2024 and Amendments, in file).

Initial online coordination through the US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) system dated May 2024 and updated in May 2025, indicated the Project is in the vicinity of the endangered northern long-eared bat (NLEB) (*Myotis septentrionalis*), proposed endangered tricolored bat (TCB) (*Perimyotis subflavus*) and candidate monarch butterfly (*Danaus plexippus*). Structure surveys for bat utilization of bridges and culverts were conducted in May and June 2025 during the pup season and no bats or evidence of bat presence were found. By email dated May 28, 2025, the USFWS concurred with these findings on probable absence of bats from the remaining portions of the Francis Scott Key Bridge and culvert structures. In May 2025, MDTA completed the IPaC Range Wide Determination Key for NLEB and TCB, and committed to a time of year restriction (TOYR) for tree clearing between April 1 and September 30, inclusive. By email dated July 2, 2025, the USFWS determined the project is not likely to adversely affect the federally listed endangered NLEB or proposed endangered TCB. The monarch butterfly is proposed for listing as a threatened species; therefore, no further coordination under the Endangered Species Act is required for this species, and conservation measures are not required until the species is listed under the Endangered Species Act (see Francis Scott Key Bridge Rebuild - Environmental Summary #3, dated August 1, 2025, in file).

MDTA coordinated with DNR Wildlife and Heritage Service (WHS) on state listed species in May 2024. By letter dated June 3, 2024, DNR WHS confirmed no state listed RTE species in the project area. WHS stated concern for potential impacts to American peregrine falcons and recommended protecting any active nest sites by limiting work within a ¼-mile buffer around the nest site during breeding season, which is generally considered to be March 1 through June 30 of any given year. However, due to the collapse of the bridge, a nesting location for the pair of peregrine falcons is no longer currently viable (see DNR WHS letter, dated June 3, 2024, and 24-WL-0607[R2], in file).

By letter dated August 8, 2025, DNR WHS also expressed concern for waterfowl concentration and staging areas within open waters of the Patapsco River shoreline. The proposed bridge alignment temporary and permanent impact areas overlap with overwintering waterfowl staging/resting areas. The overwintering waterfowl TOYR is not expected to apply to nontidal wetland 1WET-E, although it is within the mapped extent of overwintering waterfowl. This area around 1WET-E was previously filled and converted to nontidal habitat. MDTA will continue to coordinate with WHS throughout the project design process (see DNR letter dated August 8, 2025, in file).

HISTORIC PRESERVATION

The application was also screened using GIS for historical and archeological resources. The Project is in the vicinity of historic resources.

By letter dated May 16, 2024, MDTA initiated consultation with the Maryland Historical Trust (MHT) including determination of the Area of Potential Effects (APE) which included eight documented Maryland Inventory of Historic Properties (MIHP) and several unrecorded properties immediately adjacent to the MDTA ROW and project limits with potential for inclusion in the MIHP. The Project will be implemented in accordance with the stipulations outlined in the *Programmatic Agreement Among the Federal Highway Administration, Maryland Department of Transportation State Highway Administration, Maryland Transportation Authority, and Maryland State Historic Preservation Officer Implementing Section 106 of the National Historic Preservation Act for the I-695 over the Patapsco River Francis Scott Key Bridge Replacement Project* (PA), executed July 1, 2024. Following submission of the July 3, 2025 Application Amendment and in accordance with the PA, MDTA provided updated coordination to MHT on July 24, 2025, stating the revised rebuild alignment remains within the APE for the project, and no changes to the APE are warranted. While the limits of disturbance have been revised, the limits remain within MDTA right-of-way and within the archaeological survey area. The update will not result in substantially different changes to the setting of any of the historic properties within the APE, nor are any historic properties directly impacted by the change. Following receipt of the July 3, 2025 Application Amendment, MHT provided comments in eCollaboration on August 11, 2025, stating a Section 106 Programmatic Agreement was executed in July 2024 to guide the completion of the Section 106 process. MHT has no objection to the issuance of permits for this undertaking (see Francis Scott Key Bridge Rebuild - Environmental Summary #3, dated August 1, 2025, and MHT eCollab Screening Report for 202461017, dated August 11, 2025, in 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, and nontidal waterways, including the 100-year nontidal floodplain. The Permittee will mitigate for the loss of 135,789 square feet (3.12 acres) of emergent nontidal wetlands and 299 linear feet (936 square feet), equivalent to 54 functional feet, of perennial and intermittent streams, by transferring at least 135,789 square feet (3.12 acres) of excess emergent nontidal wetland restoration credits at MDTA's permittee-responsible mitigation (PRM) Jones Falls Eccleston Mitigation Site (Eccleston PRM site), and purchasing 54 functional feet of stream mitigation credits from the Pheasant Run Wetland and Stream Mitigation Bank (Pheasant Run Mitigation Bank), respectively (see Final Compensatory Mitigation Plan, September 2025, in file).

MDTA utilized a watershed approach to identify suitable mitigation sites within the Baltimore Harbor MDE 8-digit watershed (02130903) and within close proximity to the Project area in addition to searching the Regulatory In-lieu Fee and Bank Information Tracking System (RIBITS) for nontidal wetland and stream mitigation. The Pheasant Run Mitigation Bank was the only bank that serviced the Project area with available stream credits. Initially, no banks that serviced the Project area were found with available wetland credits. Thus, a PRM desktop search was initiated using the Watershed Resources Registry (WRR) and further evaluated in a desktop GIS-based search. Six potential nontidal wetland mitigation sites were identified and analyzed. Two sites within the Baltimore Harbor watershed were identified, but did not overlap hydric soils, abut National Wetlands Inventory (NWI) wetlands or include a stream or drainage feature and were dropped from consideration. Four sites were identified within the larger Patapsco River watershed and were compared to MDTA's Eccleston PRM site also located within the Patapsco River watershed. Only one of the sites was located closer to the Project area than the Eccleston PRM site, but it did not include a stream or drainage feature and was not hydrologically connected to the Baltimore Harbor watershed. Due to these factors, all four sites were dropped from further consideration (see Final Compensatory Mitigation Plan dated September 2025, in file).

The Eccleston PRM site is located adjacent to the Greenspring Valley Road and Park Heights Avenue intersection in Owings Mills, Maryland and is within the Jones Falls MDE 8-digit watershed (02130904)

and the larger Patapsco River MDE 6-digit watershed (021309). A surplus of 163,400 square feet (3.75 acres) of wetland restoration (creation) credits remain at the Eccleston PRM site and are available for MDTA's use to compensate for impacts associated with the Project, which was approved for use by MDE and the U.S. Army Corps of Engineers. Functions and values provided by the restored (created) wetlands at the Eccleston PRM site include groundwater recharge/discharge, floodflow alteration, fish and shellfish habitat, sediment/toxicant retention, nutrient removal, sediment/shoreline stabilization, wildlife habitat, uniqueness/heritage and visual quality/aesthetics. MDTA is responsible for monitoring and ensuring successful performance of the Eccleston PRM site, which is currently in its third of ten years of monitoring, and is being held to the *Ecological Performance Standards and Monitoring Protocol for Permittee-Responsible Nontidal Wetland Mitigation Sites in Maryland* dated October 30, 2020.

For nontidal wetland mitigation, MDTA compared the ecological benefits and project schedule implications for the Eccleston PRM site and Pheasant Run Mitigation Bank and requested to pursue PRM at the Eccleston site due to the following reasons. The Eccleston PRM site provides greater certainty of functional uplift with less temporal loss. The PRM site has already been constructed and is meeting most performance standards after two years of monitoring whereas the Pheasant Run Mitigation Bank is still under construction.. Financial assurances for the Eccleston PRM site are in place for design and implementation of any adaptive management measures that may be necessary to ensure long-term success of the site. In addition, the Eccleston PRM site has a direct hydrological connection to the Baltimore Harbor watershed whereas the Pheasant Run Mitigation Bank does not. Pheasant Run drains to the Lower Gunpowder Falls MDE 8-digit watershed (02130802). The Eccleston PRM site is located within the Jones Falls MDE 8-digit watershed (02130904), which drains directly into the Baltimore Harbor watershed. This hydrological connection provides an overall benefit to the aquatic ecosystems of the Baltimore Harbor watershed through improved water quality. Lastly, the Eccleston PRM site allows the Project to remain on schedule while purchase of credits from the Pheasant Run Mitigation Bank would likely result in project delays. For MDTA to purchase credits from the Pheasant Run Mitigation Bank, a sole-source procurement would be required as only one provider can provide the wetland bank credits needed for the Project. This type of procurement process is lengthy and will delay the ability to impact nontidal wetlands necessary to maintain the critical path of the Project. The wetland credits at the Eccleston PRM site are available to MDTA immediately, which would allow the Project to proceed according to schedule (see Final Compensatory Mitigation Plan, September 2025, in file).

For nontidal stream mitigation, the Pheasant Run Mitigation Bank is located near 13869 Baldwin Mill Road in Jarrettsville, Maryland and the primary service area is the Gunpowder-Patapsco HUC-8 watershed (02060003). The Project is within the primary service area of this mitigation bank.

The CBF submitted a comment during the public notice period expressing concern about the suitability of the Final Compensatory Mitigation Plan. The CBF would like MDE to require the Applicant to reconsider its nontidal mitigation to provide innovative stormwater practices including under-bridge constructed wetlands or bioswales and floating wetlands around the bridge's support columns. The Applicant responded on September 8, 2025, and noted that innovative stormwater practices were not included in the suite of options for nontidal mitigation because the U.S. Army Corps of Engineers and MDE do not provide nontidal wetland mitigation credit for stormwater treatment. Environmental Site Design practices including grass swales, bio-swales and submerged gravel wetland treatment systems have been incorporated into the Project to the maximum extent possible in compliance with Maryland's Stormwater Management Act of 2007 requirements (see Public Comments 2025 and MDTA Response to CBF Comments dated September 6, 2025, in file).

The Department has determined that the proposed mitigation for the Project will replace lost nontidal wetland and waterway acreage and functions.