

Mill Swamp Mitigation Bank Public Informational Hearing - 2025/04/07 18:17 EDT - Transcript

Attendees

+1 240-***-**13, Alex Sicard -MDE-, Alex Winter, Amanda Sigillito -MDE-, Amy Foreman, Anna Hjelmroos -MDE-, Bonnie Bick, Catherine Hoy (JMT), Edu Center, Emily Canavan, Jil Swearingen, Josh, Joshua Tiralla -MDE-, Judy Fulton, Julie L Tayac Yates, Kelly Neff -MDE-, Ken Bawer, Kristina Higgins, Marc Imlay, Melina Frame, Nick Ozburn (USACE), Outdoor Wild Wilderness, Rod Simmons, roger davis, Sharon Boies, Takako Mato, Tammi Crank, Teri Lazar, Tina Tisdell, Tina Wilson, William Seiger -MDE-

Transcript

Amanda Sigillito -MDE-: All Good evening. It's 700 pm and we will start the hearing now. Good evening. I would like to welcome everyone to the Maryland Department of the Environment's public information hearing for the proposed Mill Swamp Mitigation Bank application number 22-NPT-00001 back 2022-61353.

Amanda Sigillito -MDE-: My name is Amanda Cigalito and I am the chief of the non-title wetlands division at the Maryland Department of the Environment. I will be the presiding official for this evening's publicinformational hearing. Also in attendance with me from the department are Kelly Nef who is the mitigation and technical assistance section chief of the non-title wetlands division, Josh Terrella, natural resource planner of the mitigation and technical assistance section in the Anna Helmus, a natural resources planner in the central region of the non-title wetlands division, Alex Sicard, who is a project engineer in the waterway construction division, and finally, Bill Seager, who is chief of the waterway construction division. I would like to thank everyone for taking the time to participate in the public comment process.

Amanda Sigillito -MDE-: It is the responsibility of my office to evaluate applications that propose impacts to non-title wetlands and waterways. The department's authority is found in subtitles five and nine of the environment article. Each application received through our regulatory program has specific and unique issues and impacts that must be considered in relationship to weighing the potential benefits and detriments of the project. The department is neither a proponent nor opponent of any project. The logistics for this evening's hearing are as follows. I will make a few opening remarks about the purpose of the publicinformational hearing and briefly list the proposed impacts. I will then call on JMT, Inc. for the applicant statement regarding their project. After these required presentations, the department will facilitate public statements by first calling on any elected officials or their representatives to make a statement.

Amanda Sigillito -MDE-: I will then call on those of you who indicate that you wish to speak. It is not necessary to read a statement to make it part of the official Written comments will also be accepted and receive the same consideration as any oral statement. In fact, for accuracy, if you have a letter to read into the record, I suggest you also provide us with a copy of the letter via email or regular mail. We do not permit cross-examination of the speakers during their presentations, but you may pose questions as part of your statement for our consideration in our permit evaluation. Please note that we will not be

responding to questions or comments posed this evening. This venue is for the department to hear and record your public comments. The publicinformational hearing is being recorded and the recording will be used to facilitate the final permit decision.

Amanda Sigillito -MDE-: At this time, I would like to acknowledge any elected officials who may be present here this evening. If you are an representing an elected official, please raise your virtual hand now and be recognized. All right, I do not see any virtual hands raised at the moment. I would like to also at this time encourage you to we do have a hand up here. Mr. Mark Inlay, are you representing an elected official tonight?

Amanda Sigillito -MDE-: At this time, I would like to encourage you if you did not receive a letter from us in the mail or through the email about tonight's hearing. I would like to ask that you contact Mr. Josh Terrella and his email address is on the screen now or you can enter your contact information in the chat box. We'll need either your mailing address or your email address and this will add you to the interested person's list. and then you receive any further information from us on this project. The department is conducting this evening's publicinformational hearing pursuant to subsection 5-204 of the envir environment article and code of Maryland regulations 26230202 and 26170413.

00:05:00

Amanda Sigillito -MDE-: The purpose of this publicinformational hearing is for the applicant to present an analysis of impacts that may be associated with the proposed activity. I would like to emphasize that the purpose of this publicinformational hearing is to consider the application pending before the department. There may be a number of additional concerns related to issues that are beyond the scope of this particular hearing and I would like to have this hearing remain focused on the swamp mitigation bank. The proposed swamp mitigation bank is an approximately 30.55 acre multi-user stream and non-title wetland mitigation bank that would include restoration, enhancement, and preservation of aquatic resources. This project was first placed on public notice and publicinformational hearing was held in 2023. The reason for the second public notice and tonight's publicinformational hearing is due to a change in the scope of the project.

Amanda Sigillito -MDE-: Specifically, the Baker parcel has been removed from the project and the Witter parcel has been added, resulting in an overall net reduction in the proposed impacts. This mitigation bank would provide compensatory mitigation for future stream and non-title wetland impacts authorized by the Maryland Department of the Environment in the USGS 8digit hydraologic unit code or huck of middle PTOAC anacostia aquapon and lower ptoic huck. This proposed project includes grading and planting that would result in approximately 4.66 66 acres of wetland restoration, 13.05 acres of wetland enhancement, 3,57 linear feet of stream restoration, and additional riparian buffer preservation/enhancement.

Amanda Sigillito -MDE-: The project will temporarily impact approximately 91,874 ft of emergent non-title wetland, 55,266 ft of shrub non-title wetland, 152,586 ft of forested non-title wetland, 191,139 ft of the 25 ft non-title wetland buffer, 28 linear feet of intermittent stream, 4,17 76 linear feet of perennial stream and 510,696 square ft of the 100year non-title flood plane. The project is proposed along Mil Swamp main stem and an unnamed tributary within the middle title PTOAC river wershed. The project is located on multiple parcels off of Marshall Hall Road and Fenwick Road in Brian's Road, Charles County, Maryland.

Amanda Sigillito -MDE-: I will now ask the applicant to provide a brief presentation of their proposed project. Would the first presenter please identify yourself?

Catherine Hoy (JMT): Yes, my name is Katherine Hoy. I'm a project manager with JMT.

Amanda Sigillito -MDE-: Thank you.

Catherine Hoy (JMT): Okay, so the updated Mill Swamp Mitigation Bank is now proposed and sponsored solely by JMT and is located in Brian's Road, Charles County on multiple private properties. The intent is to develop commercially available mitigation banking credits for stream and wetland impacts in compliance with all applicable state, local, and federal standards. Crediting for TMDL sediment reduction or forest conservation act impacts is not proposed. Okay, we can go to the next slide.

Catherine Hoy (JMT): As Amanda mentioned, since the last public hearing, the scope of the project has been reduced to exclude the highquality wetlands and forest on the north side of Marshall Hall Road. However, we also added a land owner downstream for better project connectivity. Even with the additional land owner, we reduced the overall project footprint by roughly 20 acres, further minimizing impacts to natural resources. As for the project goals, JMT recognizes that this project still occurs in forested resources and will have temporary per and possible impermanent impacts to resources. It should be noted that this project is the result of years of planning and prioritization to maximize the benefits of the project.

Catherine Hoy (JMT): This includes discussions with Charles County to aid in improving flood plane storage and reduce the flood risk along Marshall Hall and Fenwick roads which both have a known history of flooding causing hazard and inconvenience for residents. This is one of our top goals. We also propose to preserve large tracks of stream buffer including existing sensitive forested slopes preserving these areas in per perpetuity and from timber management activities and...

00:10:00

Catherine Hoy (JMT): promoting the establishment of additional forest with the long-term goal of management into the old growth forest communities. The pro

Amanda Sigillito -MDE-: Excuse me,...

Amanda Sigillito -MDE-: I need to interrupt for a moment. There are some who can't see the slides. how many are unable to see the slides? If you could raise your virtual hand, looks like it's just one individual. I would suggest that you log off and then log back in and see if that doesn't correct.

Catherine Hoy (JMT): Nice.

Ken Bawer: The problem is I'm sorry it's Ken Bower.

Ken Bawer: It's in a little tiny space where the picture normally is. we don't have a full screen view.

Amanda Sigillito -MDE-: I see. Does anyone know how one would enlarge their screen view?

Kelly Neff -MDE-: I can see it. It's taking up the whole screen for me. So, I wonder...

Amanda Sigillito -MDE-: Okay. Okay.

Kelly Neff -MDE-: if it's something in Ken's screen.

Emily Canavan: If you go to the settings,...

Tina Tisdell: Click on the Tap the slide.

Emily Canavan: I'm sorry. If you go to where there are the three dots, it says more options, you can choose to view it as a full screen.

Amanda Sigillito -MDE-: Thank you Mr. Bower.

Amanda Sigillito -MDE-: I would suggest you try that then and we'll go on with the presentation. we will put these slides on our website. They'll have those put on our website in a couple of days. All right. If you want to continue with the presentation, please. Thank you.

Catherine Hoy (JMT): The proposed project prioritizes tributary health and...

Catherine Hoy (JMT): restoration of wetland hydrology and will include long-term monitoring, maintenance, and adaptive management to ensure those goals are achieved. The project driver is not the prioritization of sediment reduction and bay health issues, though those are certainly included co benefits. We plan to implement techniques appropriate for the history and the geology of the Maryland coastal plane which differ significantly from typical TMDL projects.

Catherine Hoy (JMT): In coordination with the Maryland Department of Natural Resources, JMT proposes to develop new performance and planting standards to ensure that forested canopy preservation is a key component of the design as well as advanced techniques to ensure that opened areas and gaps in canopy are restored to a forested condition. These include preservation and expansion of forest interior dwelling species habitat. All of these standards are to be enforced through the project monitoring and conditions granted in inter agency review. Next At the properties along mill swamp property that you see here, JMT proposes primarily preservation and enhancement of forest and resource. The forest and resource buffer are shown in the purple and wetland enhancement shown as the green hatch.

Catherine Hoy (JMT): There will be stream restoration within these sections. However, we propose to minimize forest and surrounding resource disturbance in the greatest extent possible to meet the project's goals. JMT's team of designers and project partners have extensive ecological restoration experience and have demonstrated success in Maryland as well as nationally in improving tributary health in our projects. We recognize that working in locations with good connection to existing high-value environmental resources yield measurable product success and thus committed to working to preserve these features throughout through the most sustainable methods possible. In this way, the resources can be expanded locally into larger contiguous and more biologically significant areas. Next slide.

Catherine Hoy (JMT): Along the tributary, we are proposing to enhance existing wetlands, which is the green hatch, and restore wetlands where there has been previously farmed land. It's that bluish kind of shading there. And as you can see, the areas that will be restored are areas that are currently void of forest. Additionally, these areas will be planted with native trees and shrubs to create a robust forested wetland. Throughout the construction, the contractor will be monitored by environmental specialists to ensure tree protection areas are enforced and such safeguards can be easily written into contracts and

permit conditions. Additionally, the contractor will be selected from a pool of qualified specialists with demonstrated experience working in sensitive locations and not on a low bid basis. Next slide.

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Catherine Hoy (JMT): Our approach is to first assess the adjacent upland areas for opportunities to minimize runoff for and maximize water quality benefits then address the conditions that have led to direct degradation of the existing channel through resaturation of the flood plane. Our goal is to restore the carbon sequestration capacity of the historical impact floodplain wetland complex and the restoration of wetlands as well as the improvement of floodplain storage capacity is an important group of resiliency practices. Here's a list of what we have scheduled and will continue to collect in the way of pre and post construction data.

Catherine Hoy (JMT): JMT is an advocate for policies and practices which sustainably and responsibly restore ecosystem services in the state of Maryland and welcomes the constructive participation of agencies and stakeholders to develop policy and practices which put the resources first and require that projects meet the higher mitigation standard for stream and wetland impacts regardless of the project intent. JMT recognizes that while mitigation banking streamlines the mitigation project process, it should be used only when impacts are truly unavoidable and when that need can be well justified. Mitigation banking provides the most enforceable and highest quality available alternative for restoring ecological function and vastly outperforms small and often neglected permittee responsible mitigation sites.

Catherine Hoy (JMT): JMT reminds all those present at this meeting that stream and wetland impacts should not be taken lightly and that thorough, thoughtful, and reviewed alternative analysis should be conducted for every permit application within the thresholds for waterways impact review. Thank you.

Amanda Sigillito -MDE-: Thank All Before we move on to taking general comments, I would like to ask again if we have any elected officials with us this evening or anyone representing an elected official. If you would please raise your virtual hand to be And as before, I don't see any virtual hands. So now we will move to taking formal statements. If you would like to make a statement tonight, please raise your virtual hand and leave it raised until we call on When we call your name, we will unmute you and you begin to speak. Please start by clearly stating your name and any interest which you may be representing.

Amanda Sigillito -MDE-: Speakers representing a group or an organization are allotted five minutes to make their remarks and individuals are allotted three minutes for their remarks. Due to the number of attendees this evening, we will need to adhere to time limits. Therefore, at the 30 second mark for all speakers, we will inform you of the time remaining for your statement and at the end of 30 seconds, we will thank you for your statement and call on the next speaker. So, Mr. Bower, you have your hand raised. would Yes,...

Ken Bawer: Yes. Can you hear me?

Amanda Sigillito -MDE-: I can hear you just fine. Please start with your remarks by stating your name and...

Ken Bawer: Thank you very much.

Amanda Sigillito -MDE-: any interest which you may be representing.

Ken Bawer: My name is Kenneth Bower with the Coalition to Stop Stream Destruction with no financial interest in this project. A permit for this proposed mitigation bank should be not denied since it is totally without merit in spite of the purported years of planning for the following reasons as detailed in my written testimony. Mitigation is a legal but ethically and environmentally corrupt money-making scheme. The reviewed science shows that mitigation projects do not repair environmental damage at a mitigation site and thus cannot possibly balance the environmental destruction at a developer construction impact site. On this basis, mitigation projects are in clear violation of the Clean Water Act.

Ken Bawer: Unfortunately, this is not about science this is about politics and the fear of retribution in the form of lawsuits by. Reasons why a permit for this proposed mitigation bank should be denied include the following reasons. One of the prospectus needs statements falsely claims that urbanization has impacted streams and wetlands at these locations the baseline site conditions do not support the need for stream and wetland restoration. Three, the peer-reviewed science shows that stream and wetland mitigation projects do not provide biological uplift and therefore violate the Clean Water Act. Four, the permit requester team is not qualified based on past performance of similar projects such as the Font Hill Tributary Stream Restoration in Howard County, which resulted in clear-cutting the existing riparian forest. Five, the prospectus has no proposed expectation of biological uplift resulting from the project.

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Ken Bawer: Six, the proposed channel uplift practices are discredited methodology. Seven, this project only addresses symptoms without addressing the root cause of stream and wetland degradation as is recommended in NBE's new guidance for stream restoration and stream/wetland complexes. Eight, there are numerous false or unsubstantiated claims of the prospectus. Nine, the conservation easement as shown in the prospectus violates the purpose of the conservation. Intend the conservation easement template in the prospectus prohibits the grantor from performing a set of activities in order to protect the future conservation easement from harm. However, these same activities will actually be performed by the mitigation bank applicant and the science shows that stream and wetland mitigation projects do not provide biological uplift.

Ken Bawer: Therefore, mitigation projects violate the Clean Water Act and are simply money-making schemes that clear-cut forests, move dirt around, dump rocks into streams, and fill the newly dug holes with water claimed to be new wetlands for the benefit of corporate profits. This project will perversely allow forests and their ecosystems to be destroyed to theoretically offset future land development elsewhere. The documented photographic evidence in my written testimony shows the widespread destruction caused by stream restoration projects, included by those done by JMT. Stream restoration is typically clear-cut mature streamside forests and it will take hundreds a hundred years or more for a replanted forest to recover. This is not a temporary impact. The permit for this application should be denied since mitigation projects in the waters of the United States are required to demonstrate biological uplift through the Clean Water Act, but the science shows that biological uplift does not result from mitigation projects. This application says that the project will create quote riparian buffer expansion and enhancement.

Ken Bawer: However, the Font Hill tributary stream restoration in Howard County DEJMT resulted in clear-cutting the existing riparian forest. Regarding sustainability, the mitigation rule states, quote, compensatory mitigation projects shall be designed to the maximum extent practicable to be self-sustaining once performance standards have been achieved," unquote. However, stream restorations

have been shown not to be self-sustaining sustaining restorations are being washed out across the region, rendering them useless. This is due to the lack of upland storm water control which is the root cause of most stream restorations. For example, a washed out project in Montgomery County, the lower Booth Creek project had to be repaired to the tune of \$3.6 million. As shown in Palmer's reviewed 2014 analysis of 644 stream restorations, less than half of all stream restorations showed improvement in stabilizing channels. This is worse than a coin toss.

Ken Bawer: The mitigation rule states that quote district engineers will evaluate compensatory mitigation proposals for streams and assess the likelihood of success before deciding whether the proposed mitigation should be required. Given the low likelihood of success of this or any other mitigation project as documented by the referenced scientific research in my testimony,...

Amanda Sigillito -MDE-: 30 seconds.

Ken Bawer:

Ken Bawer: this permit should be denied. It is clear from the perspective maps that the mitigation pro bank sites are not urbanized areas. It is likely that any degradation in sight streams was caused by poor agricultural practices over hundreds of years. This is easily rectified by livestock fencing and repairing f plantings, expansion of exist existing buffers instead of destructive stream restorations without biological improvement. purported mitigation projects that spend only money that spend money only on physical or chemical restoration that does not result in biological uplift have no value other than to make money for contractors. In summary, this permit should be denied since the benefits of the proposed mitigation project are far from proven. MDE and the core should refuse the project.

Ken Bawer: But sorry if MDE and US Corps my last sentence refuse to deny the permit they should require that outofkind upland mitigation projects be done and...

Ken Bawer: to require biological uplift as an end result. Thank you for considering this input

Amanda Sigillito -MDE-: Thank you.

Amanda Sigillito -MDE-: Mark Inlay, Mr. Inlay, can you hear us? If you're speaking, we can't hear you.

Amanda Sigillito -MDE-: All I'll come back to him. next is Melina Miss Frame, can you hear me?

Melina Frame: Hello. are you able to hear me now?

Amanda Sigillito -MDE-: I can hear you now just fine. Thank you so much.

Melina Frame: Perfect. Thank you. All right. there's several reasons...

Amanda Sigillito -MDE-: Start by with your name and...

Melina Frame: why I got you.

Amanda Sigillito -MDE-: any interest you recommend. you represent Great.

Melina Frame: My name is Molina Frame. I'm a Charles County resident and I represent no interest, just a private citizen.

00:25:00

Amanda Sigillito -MDE-: Please go ahead with your comments.

Melina Frame: So the land parcels where this proposed mitigation site will be placed according to the greenprint map that the division of natural resources has. This is a targeted ecological area that is absolutely crucial for habitat connectivity, future wildland habitat and a year ago the National Wildlife Refuge Association wanted to even give more resiliency to this important watershed by making it part of that area. Now that plan may come back in the process soon or maybe in another year down the line, but it's absolutely important for the resilience to climate change to conserve water fowl and other migratory bird habitat and the recovery of listed threatened and endangered species that needed outdoor recreational activities to the 10 million people who live and work in the Washington Baltimore metropolitan area.

Melina Frame: What the second argument I would have is that the stream restorations and I would love to see a report from JMT of how their past stream restorations have been proven effective because I'm not running across any kind of evidence whatsoever. In fact, the University of Baltimore Legal Forum said that at present, the insignificant attention to the basics of the Clean Water Act has made efforts counterfactual and they would even went so far as to call it a form of anti-regulatory experimentalism.

Melina Frame: the other thing that we're an error of the law here with that is that the wetlands and waterways program division in 2022 made a mandate that said basically you will include in your restoration if you are a restoration project or stream mitigation developer that it's going to put measurable scientific aims here and I've not seen any proposal for that. In fact, the report sent out was kind of missing in a lot of impact areas. So, I'm not really sure what they're skipping over or what was never presented. My final argument vars away from the ecological importance of this area, which it is extremely important, and this is also the site of the Mayon village.

Melina Frame: I know that the lines for the Biscataway National Park are maybe a mile above it, but the actual area that archaeologists have found...

Amanda Sigillito -MDE-: 30

Melina Frame: which were the traditional lands of the Biscataway nation or they used it as the waterways for basic substance because the battoic and the streams that fed it were trade and transportation routes. Now to my knowledge the Army Corps of Engineers has not requested input from the tribe and under section 101 of the American Historic Preservation Act that is a requirement. So I would encourage that conversation to happen. Thank you for this time.

Amanda Sigillito -MDE-: Thank Sharon Boyce, if you could begin your comments by stating your name and any interest you are representing. Miss Boyce, I'm sorry if you're speaking. We can't hear you.

Sharon Boies: Can you hear me now?

Amanda Sigillito -MDE-: Yes, can hear you now.

Sharon Boies: right.

Amanda Sigillito -MDE-: right.

Sharon Boies: Thank you.

Amanda Sigillito -MDE-: Please.

Sharon Boies: Good evening. My name is Sharon Boyce and I'm Protect Our Streams this evening. Thank you for this opportunity. I also refer to you my submitted written testimony. The various terms used for stream restorations in the Mid-Atlantic are very misleading. These projects use heavy diesel powered construction machinery to strip away trees and vegetation and fragile riparian zones. Excavators scrape away the stream banks and sediment in the stream channel. But this process doesn't stop the gritty polluted storm water runoff from entering the stream to begin with. They allow profit from the side effects of pollution without curing it. Study after study shows that these projects do not achieve their stated goals. This philosophy is based on economics and not biology or ecology.

Sharon Boies: Mitigation bank sell credits for profit to allow developers to build in fragile and sensitive habitats. But is illogical and nonsensical to suggest that the way to mitigate the environmental harm caused by cutting down a 100-year-old forest is to cut down another 100-year-old forest. In a similar project by a different applicant, property owners were incorrectly advised their land could be held in two different conservation easements at the same time. One owner was offered \$1,400 an acre to put their land in the mitigation bank easement, but wetland credits were selling for around \$75,000 a credit at that time. What have these land owners been told? And what have they been shown will really happen to their property and stream? Tree loss has a domino effect. These projects lead to a loss of wildlife habitat and biodiversity. They increase light, air, noise, and water pollution, and heat island effects.

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Sharon Boies: Heavy machinery, compacts, and hardened soil, which leads to runoff and erosion, and invasive species quickly take over the new conditions. It only takes one pass over a tree's roots to kill. Small roads, and bridges could be impacted by heavy machinery driving on them for months on end, and this area already experiences flooding from the impacts of climate change. The flooding has been exacerbated by a new housing development in the upland watershed and this project doesn't address that. Stream restorations distort watersheds natural hydrology and geomorphology and increase the chances of downstream and sideways and even upstream flooding. They reduce climate resiliency. Their carbon footprints are immeasurable.

Sharon Boies: The eroding stream banks we see in the pictures can happen in one major event like a flood or a hurricane. These projects have no guarantees. They have a life expectancy and they're prone to failure after large rain events. Are there any homes in the area or downstream on wells or septic? Is the applicant willing to put in writing that they will accept all financial liability for any flooding or other property damage caused by this project in the future? why not? The loss of leaves in the creek and degraded water quality lead to a loss of macro invertebrates that feed so many other aquatic species which feed amphibians, reptiles, birds, and even bats are dependent on a healthy population of insects. Warm, shallow, deoxygenated rockline streams are left biologically impaired for undetermined amount of time and possibly forever. The property in order to be made aware of this this area is so unique and worthy of preservation.

Sharon Boies: It's shown on the map as eligible to be included in the new US Fish and Wildlife Refuge. Preservation is an option. There are concerns this project could tie into an LNG plant in the future and wondering is MDE or the applicant aware of any plans for this. I'm deeply troubled by the potential loss of

Native American artifacts and possibly disturbing or flooding out ancient burial sites. The applicant applied years ago. So, how often and what tests have been performed on the water quality, the rate of erosion, and the stream biology? What were the results? And where are they available? Is there any proof the streams have gotten worse? Will those results be used as a bait baseline for proof of success before performance credits are released? Will credits be withheld or revoked if the project does not improve water chemistry or stream biology?

Sharon Boies: The design and prospectus seem to be more of a concept lacking in many details. What specifically is the applicant proposing? which trees are they cutting down? For example, Charles County geology includes sand, gravel, clay, and shell beds.

Amanda Sigillito -MDE-: 30

Sharon Boies: Why wouldn't you expect ment Sediment and erosion are a natural process. We can't stop it. Finally, what has been proposed to adjust the runoff before it enters the stream to improve the water quality? I support credits for bio retentions, tree preservation, repairing buffers, and stream biology and water quality testing. But you can't just cut down trees, plant more, tear up streams, and say that mitigated environmental harm elsewhere or call to restoration. I'm asking you to please deny the permit. Thank you for your consideration and...

Sharon Boies: your time.

Amanda Sigillito -MDE-: Thank you.

Amanda Sigillito -MDE-: Next is Josh. If you could start by stating your full name and then any interest you may be representing this evening.

Josh: Hi there. Can you all hear me?

Amanda Sigillito -MDE-: Yes, I can hear you just fine.

Josh: Okay, great. Joshua Kaufman. my home address is 2114 Marshall Hall Road that abuts the proposed project. I'm a licensed contractor. I'm a responsible party with the sediment and erosion control with my own green card. I built my own home here. so my concerns are the Marshall Hall Road state highway will suffer worse flooding and stream erosion. I've seen a lot of undercutting both on my property and along Marshall Hall Road. I've seen the rip wrap torn up out of the embankments and the channels that carry the storm water as well as the fabric.

Josh: and that has not been replaced. I've seen a great deal of sediment eroding the banks on my property. I did notify Charles County about it public works. I talked to them about Strawberry Hills and these new Timber Ridge developments and they expressed no concern. the project if it slows water down that is already flooding this road. I'm concerned about emergency vehicles. I have photographs and videos of the fire department trying to respond to emergencies that couldn't cross Marshall Hall Road because of the flooding. And I'm also aware of the water rescue program that uses Marshall Hall Road down at the boat launch.

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Josh: if they wouldn't be able to access that during a flood, who's going to be responsible? so I took a look at the application. It didn't look like it had any specific details of gabian baskets or what kind of mitigation are you proposing to restore the stream and the impact that would have on the surrounding areas. it also does not provide any studies of total dissolved solids monitoring or testing documentation to baseline the storm water runoff in the area or how it would be addressed or remediated.

Josh: I'm aware that Tetrat Tech and other contractors spend years and years looking at the total dissolved solids with monitoring stations and I haven't seen any of that in these proposals the remediation. the report does reference groundwater studies but they were not included. I also think further information is needed regarding project naing. Is J an architectural engineering firm in the business of financing their own remediation projects? They did say this would be handed off to a contractor. I did see about \$5 million of funding passed to that company over the past years to manage these sort of projects,...

Amanda Sigillito -MDE-: 30 seconds.

Josh: but I don't see that they have the liquid assets in place to manage this project themselves or if they will be accountable. I am asking the state and federal agencies to permit issuance based on these facts and I am also requesting that the application be refiled with attention from geotechnical engineers to the geotechnical area of concern that is mandated by Charles County. Thank you.

Amanda Sigillito -MDE-: Thank you. Amy Foreman, if you would like to go ahead with your statement, please start by giving us your full name and any interest that you may be representing.

Amy Foreman: Hello, my name is Amy Foreman. I represent no interest. I'm just a individual citizen of Charles County.

Amanda Sigillito -MDE-: Very good. Please go ahead.

Amy Foreman: Thank you for the opportunity to comment on the proposed Mil Swamp Stream Restoration and Mitigation Bank. I'm asking the MDE and the USACE to please deny the permit. It is imperative that we become more cautious about protecting Charles County's remaining forest and forest stream corridors. Unfortunately, Charles County is one of the highest designations for forest loss compared to other Maryland counties. This project would remove mature trees and disturb the hydraology impacting the future quality of life in our area.

Amy Foreman: The proposed site for this project can and does have more productive alternatives for the future, but unfortunately these better alternatives have not been studied by this proposal and they absolutely must be. This land is in the Mount Vernon shed and is also included in the new Fish and Wildlife Southern Maryland woodland refuge. Citizens of Brian's Road, including myself, are working hard to save their quality of life under the threat of a new Brian Road sub area plan, which plans to add thousands of additional housing units all on sensitive forested land. This community deserves a better vision.

Amy Foreman: Brian's Road has the possibility of becoming the heritage gateway to Indian Head and to the National Marine Sanctuary. None of these issues that impact our future were dealt with in the Mill Swamp application. There was very little state or federal outreach for this proposal. I just found out about

this hearing yesterday. I recommend an outreach MDE webinar, including engagement with the MDE's environmental justice coordinator before the record closes. Mil Swamp is in a minority community that is in the process of being turned into a sacrificed zone by Charles County.

00:40:00

Amy Foreman: The unacceptable sprawl development of the Brian Road sub area plan turns the only shopping center into an apartment complex and reconstructs the failed crosscount connector highway which the ACE and MDE denied a decade ago. Charles County is also in the process of enlarging an airport to support jet traffic and presently allowing piston engine aircrafts to drop lead on minority school that are 4/10en of a mile from the runway.

Amanda Sigillito -MDE-: 30 seconds.

Amy Foreman: It is unacceptable for agencies tasked with ensuring our waters are more fishable and swimable to consider this project separately without consideration to the disruption to the Our community, the ACE and MDE invite the environmental justice staff to help and cons and to consider this project with direct secondary and cumulative impacts. Now during a time of increased flooding and to climate change, mature forests hold increasing high value worldwide. They sequester carbon, produce oxygen, filter silt, and help migrate the heat island effect. As a young person who is a citizen of Charles County,

Amy Foreman: I'm asking for the denial andor further study and more per public education for the local community before the record on Milswan closes. Thank you.

Amanda Sigillito -MDE-: Thank you.

Amanda Sigillito -MDE-: right, Bonnie Vic, if you could start by giving us your name and any interest that you may be representing this evening. hear you just fine. Yes.

Bonnie Bick: Okay, can you hear me? Good. Okay. I'm representing the Madam Woman Watershed Society and we have been involved in this area for quite a while because it's very much related. Brian's Road is in both the Madawoman and the Pam watershed and Brian's Road as the last testifier said is under tremendous pressure for change and this is another major change and it's in a very sensitive ecological area that should have much more protection than it does have because it is in the Mount Vernon watershed

Bonnie Bick: and it is part of the new fish and wildlife southern Maryland woodland refuge. So it is inappropriate for this huge project with all of this wetland impact to go to proceed without the community involvement. It's a minor minority minority community and there's been no mention of that and...

Amanda Sigillito -MDE-: Yeah.

Bonnie Bick: also the environmental justice coordinator for MDE should be involved in this and set up a webinar so that we can have public education. it's so wrong because what you don't know about the Brian's very little or nothing about the Brian's road sub area plan but it is taking away all of the watershed conservation district that was very much put in place to protect our environment. So essentially this is another expo and why did that happen? Because they didn't have public participation. all of the public participation was sucked up and not delivered to the public. So, it's just wrong to keep proceeding and

destroying this area because it has a totally different opportunity. It can become with Mount Vernon, Marshall Hall, and Thomas Stone.

Bonnie Bick: It could become the gateway to the National Marine Sanctuary and the town of Indian Head instead of being a sprawl development project that has restraints on the developers. The reason there's flooding is because these developments are being taking down the forests and they're not doing the proper storm water. So this whole thing with this mitigation and the mitigation bank makes me feel very uncomfortable because of the location, it's so close to the Dominion property that they wanted to turn into a compressor station.

00:45:00

Bonnie Bick: And as I recall, the Baker property was owned by a fossil fuel company. So we don't know why the Baker property is out now, but we think that there should be a lot more transparency on all fronts, including the finances of this because I think people don't understand how they're actually subtracting our future sustainability with this proposal. So, I call for public education before and a long extension on the records so that we can get some environmental justice here in this proposal.

Bonnie Bick: I'm sure I have lots more to say, but I want to say that I support the technical information that was provided by previous speakers because I need more technical information and answers to questions. Thank you.

Amanda Sigillito -MDE-: Thank you. All right, Emily Canniban,...

Amanda Sigillito -MDE-: if you could start by giving us your name and then stating any interests you may be representing.

Emily Canavan: My name is Emily Cannon.

Emily Canavan: I'm representing my own interests today. as a person...

Amanda Sigillito -MDE-: All right.

Emily Canavan: who has lived in this area for my entire life, more than 40 years, I just wanted to say, I'm glad that I went after the last two speakers because I just want to follow up. I was able to see the slides. and I am still completely confused about this project. And I feel like that is by design. It was short presentation. It was purposely vague. It was full of buzzwords like sustainability and protection. The maps were flashed for just a moment. I don't even think they were labeled. it was the bare minimum to say the least to involve this community.

Emily Canavan: And as we heard, politicians didn't even bother to show up. it's not necessary for every acre of Charles County to make money for corporations. And the best way to mitigate the destruction is to not destroy it. That is what needs to happen. So I want to ask the Army Corps of Engineers to deny these permits while you educate the community and actually talk about this. This is the first I've even heard of it. And I joined this call assuming that I would know more now than before, but I know less. saying things like we shrunk it by 20 acres, but with no information. It's acting like you're working with the community, but you're not. And I grew up on old Marshall Hall Road. I have driven on Marshall Hall Road my entire life.

Emily Canavan: I don't know if the person who was giving the presentation has ever been there, but it is underwater all the time constantly. The fact that we're talking about developing and destroying that even further is insanity. so I also just want to say somebody else mentioned the crosscount connector that was in the Brian's Road Plan from 10 years ago. I was one of the leaders in Protect Brian's Road who helped to stop that plan and the reason that highway was taken out is because it is an unnecessary and a terrible use of this part of the county.

Emily Canavan: So, I would just like to say that I really hope the Army Corps of Engineers will deny these permits and that Charles County will take this part of the community seriously and not hold these sham hearings to say that we've been involved and then do whatever it is they want.

Emily Canavan:

Amanda Sigillito -MDE-: 30 seconds.

Emily Canavan: I'd also like to say I was going to read a friend's comments who was having technical difficulties because this wasn't something that you guys bothered to hold in person. so if he's not able to speak, I would like to speak for him.

Amanda Sigillito -MDE-: All right, I believe that was Mr. Emily and I will call on him in a bit. Thank All right, Alex Winter, if you could start by giving us your name and any interests that you may be representing. Mr. go ahead if you would please.

00:50:00

Alex Winter: Okay. Great. I'm Alex Winter. I live in Aik for some decades. I lived a few miles away in Brian's Road and was very involved in community efforts and...

Amanda Sigillito -MDE-: Okay.

Alex Winter: and environmental efforts there. And I'm very involved with the Charles Countybased organizations, the Meadowoman Watershed Society and Chapman Forest Foundation, though I'm not speaking for them tonight because I didn't have a chance to get everybody together and organize that. there's been a relentless push by the business community in Charles County to Waldorfize all of Northwest Charles County and ultimately all of Charles County.

Alex Winter: and I, see this as part of it, even though this is not a county hearing. I just very near where I live now, there was a restoration project and there were signs up saying that's what it was. But it should have been called a forest fragmentation project because where there was woods suddenly there was none or scanty and all those trees were holding in the banks of the creek there. And it seems like a clearly destructive thing.

Alex Winter: And it's just a very common thing for a environmentally destructive project advanced for private profit over public interest to be colored for the environment. And I believe that this is a case of that. I'd very much urge the core and makes this one kill it fast. And if they absolutely refuse to do that, which they should not, then I think it needs a lot more study and public outreach. So that's what I have to say.

Amanda Sigillito -MDE-: Thank Roger Davis, if you could begin by stating your name and...

Amanda Sigillito -MDE-: then the interest you are representing.

roger davis: My name is Roger Davis and...

roger davis: I'm just representing myself. I live near Font Hill stream restoration that was done several years ago by JMT.

Amanda Sigillito -MDE-: All right. Go ahead, please.

roger davis: My I don't have any special expertise in stream restorations. The only expertise I might have is from having walked miles of them in Howard County. And what I do know that people that work at T JMT and people that worked at MDE apparently feel comfortable what they do for a living. You should not because all the stream restorations I've seen are either failing or have failed. the Fontill Stream restoration was done upstream of a previous restoration on the Fontill Stream that completely failed.

roger davis: And after restoration and after, a big flood, the previously restored section that was not done by GMT, JMT, it looks worse than your before pictures. And this is a stream restoration that, got credits and it's just a complete failure. It has six foot eroded banks. wherever they didn't put the huge boulders and where they did put the huge boulders, many of them have fallen into the stream.

roger davis: the more recent section of the Font Hill stream that JMT was involved with, they make the mistake of holding down their koyer matting with 2x4 stakes. And these stakes when they're first installed, they usually leave them four to six inches sticking out of the ground. And what I use them for is indicators of is the flood plane washing away or is the flood plane being buried in sediment. Now according to the models that this is all based on This is all engineering models that haven't passed the test of science.

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roger davis: There's no major studies of many different stream restorations showing that this reconnecting with the flood plane model is even working. And I see it in person every time I walk a stream restoration because your 2x4s are not getting buried in sediment because there is no sediment deposition that they're all eroding and then they eventually fall out of the ground. So, it's just you all need to go out and look at previous stream restoration and...

Amanda Sigillito -MDE-: 30

roger davis: and realize what you're doing is a total sham and look at all the people that work for you. How many scientists are on your staff? It's all engineers and bureaucrats and you're just ignoring the science. And I don't support Trump, but this is a Democrat thing that is just you're wasting people's money and it's just ridiculous. And as far as people saying that the road near this project has been flooding, one of the main ways that stream restorations are supposed to do their work is reconnecting with the flood plane, which means flooding.

roger davis: So, it's just outrageous that you go into an area that already has flooding, which is what they try to do in my neighborhood, a stream that's already experiencing flooding and either flooding houses or flooding roads, and then you come in and...

roger davis: fill the stream in to raise the level of the stream and make flooding worse. I doubt people on this call from the neighborhood even realize this is going to make it worse. And you have the nerve to put in your notes.

Amanda Sigillito -MDE-: Mr. Davis,...

Amanda Sigillito -MDE-: your time Could you wrap up your comments in 30 seconds,...

roger davis: Yeah. Thank you.

Amanda Sigillito -MDE-: please? Thank you.

roger davis: I dy this project. Please grow a cont

Amanda Sigillito -MDE-: Thank you.

Amanda Sigillito -MDE-: Thank you for your comments, Mark Imlay. And I believe that Miss Canavan is going to read his comments.

Emily Canavan: Mark, do you want to try your microphone? I haven't received an email from you.

Marc Imlay: I'm trying it.

Marc Imlay: I think

Amanda Sigillito -MDE-: We can hear you now. Yes.

Marc Imlay: Good. Okay. So my comments were that I've been to the site a lot of times and as a naturalist I identified high biological diversity not just in the forest next to where the restoration would go but in the open space habitat too native plants and wildlife and the One of the terrible things this restoration project could do is block the movement of migratory species at any habitat. Half the species are half are called sink species during the year they migrate away and migrate back. So that would have a big impact too.

Marc Imlay: But basically I've been to the site and I agree that's as a naturalist I found I did not find much invasive species just the multifloor rows which I got my volunteers to help remove. So, it's in good shape now. So, let's not destroy it.

Amanda Sigillito -MDE-: Does that conclude your comment for this evening?

Marc Imlay: What else did I say Emily in my notes? Anything else?

Emily Canavan: Unfortunately I wasn't able to see them. if you post them in the chat Do you want to email them to me and...

Marc Imlay: Put in the chat. yes.

01:00:00

Marc Imlay: The project would destroy about one half acre of the natural area and...

Emily Canavan: then I can

Marc Imlay: In my chat I said the same thing would also block natural movement of species that migrate. Okay, thank you.

Amanda Sigillito -MDE-: All Does that conclude your comment for this evening?

Marc Imlay: Thank you.

Amanda Sigillito -MDE-: Thank you. Tina Wilson,...

Amanda Sigillito -MDE-: if you would begin by giving us your name and any interest you represent.

Tina Wilson: Tina Wilson.

Tina Wilson: I do not represent any particular interest, but first I want to begin by saying thank you to the staff. I appreciate the fact that you're being here tonight. I know you are following a process. It's public comment and public comment also requires collaboration and finding a remedy. it's a starting place. I echo the comments of my colleagues that have already made their comments prior to me. I'd like to share with you that I am the president of the port tobacco river conservancy.

Tina Wilson: I am a member of the MatterWoman watershed society, a member of the conservancy of Charles County, but I do not represent those interests. But because I am an active participant in these organizations, you can surely understand our appreciation and concern about this project. I also like to personally share that I am a descendant of Charles ler of the Charles Butler family that is from the Brian Road area and has close proximity of Fenick Road. My family has been in this county for over 100 years.

Tina Wilson: We also have connections to the Pascataway Canoi in Indian tribe and again I'm not representing any of those interests other than my family. It is only because recently I became aware of this project. Obviously I have a vested interest. I don't find any fault with any particular entity or government agency. But let's be clear based on the comments tonight. We need a lot more study, a lot more outreach, and I'm highly recommend to you that we deny this application until we have more conversation about better outcomes for this particular area. Thank you for considering my comments.

Amanda Sigillito -MDE-: I've got another person with their hand raised. Mr. Emily, I'm going to move on to Tammy Crank.

Tammi Crank: Hi, can you hear me?

Amanda Sigillito -MDE-: Yes, I can hear you. If you could start by giving us your name and...

Tammi Crank: Okay. Absolutely.

Amanda Sigillito -MDE-: any interest you represent.

Tammi Crank: My name is Tammy Crank and I am a resident of Brian's Road and also a community organizer of the Voices of Brian's Road community group. And I am just learning about this meeting tonight which is very concerning to me because as another active citizen in her area that also works diligently to engage other citizens to know what's happening around their area and where they live at. There's no information regarding this that has been shared with us. And that is so concerning and unfortunate to many of us because these are things that we are directly impacted by especially as a person who loves Madwoman Creek. I am a person that frequents there.

Tammi Crank: But my experience visiting last year when the weather was nice was I saw many dead fish and other deteriorating natural resources in the area due to neglect the excess building and storm water runoff and things and it really alarmed me and I went to my commissioners with grave concern about this and I also shared with other citizens who also shared that they had seen these things and I took pictures and videos as well. because I'm a person that does like fishing and I like nature and hiking and just recharging in those elements.

Tammi Crank: So to hear about things and also I'm in a community that just was subject to matter watershed restoration in the Southampton community where something that I believe it was Rob Simmons had mentioned that actually is happening in my community where that just took place by the county and they just cut all these trees down in the community to help prevent flooding that was taking place in the new community that was built back

01:05:00

Tammi Crank: in 2018. So, these things are happening and it's concerning because we're seeing all these proposals taking place, but we're not seeing people out here with boots on the ground and actually engaging us citizens that live here who can tell you the truth even if you can't physically get here. We can tell you what's happening here and we would be happy to be engaged because we are stakeholders and investors too because we own property in the area and we want to be a part of what's going on, as a person who's lived here for, almost 20 years now, and, this is my first home purchase, I feel neglected by the state and the county, when it comes to this area and Brian's Road, and how we're treated over here and our input and our engagement from, other entities that are working, to take action in this area.

Tammi Crank: So, I don't want to take up too much of your time, but I would be happy to help with coordinating more citizen engagement as I have done over the past year with Voices of Brian's Road and other citizens in the area so that we can be included and we can be a part of what's happening here, but we don't want to live in an area that is just diminished and deteriorated. And that's what Brian's Road is starting to become. and it's almost depressing and it feels like my investment to this area is becoming something that I have to reconsider. So, thank you so much for your time and allowing me to speak and I will continue to listen in on the rest of this meeting.

Amanda Sigillito -MDE-: Thank you for your comments.

Tammi Crank: You're welcome.

Amanda Sigillito -MDE-: All right, that was the last raised hand we have before I move on with the hearing and where we go from here. I'd like to offer an opportunity to anyone who has not made a comment yet if they would like to raise their hand and make a comment this evening. And again, you do not have to make a comment this evening. You can email in your comments and they will be just as much a part of the record as any oral statement made here this evening.

Emily Canavan: How long will you be accepting statements?

Amanda Sigillito -MDE-: Up until the 21st of April, you can email them in or mail them in whichever works best. April 21st

Tina Wilson: I'm sorry. Can you say that date again?

Amanda Sigillito -MDE-: Mhm. Yes.

Tina Wilson: April 21st.

Tina Wilson: Thank you.

Bonnie Bick: Excuse me.

Bonnie Bick: This is Bonnie Big speaking. Can you hear me? it seems that you're not considering our request for more public participation before a decision is made on this and so closing the record on April 21st is inappropriate. there were many anyone who lives in that community as the last caller said doesn't even know that this is going on. It's a major disruption and we have other destruction proposed for that area and all of this should be looked at cumulatively instead of turning this area into a sacrifice zone when it has so it's the highest ecological values.

Amanda Sigillito -MDE-: All right.

Bonnie Bick: If this is so saying that the record is closing on the 21st is inappropriate. So many people have asked more for environmental justice participation with you have staff at MDE.

Bonnie Bick: I don't know if they're on the call but they should be involved with this community.

Amanda Sigillito -MDE-: All right.

Amanda Sigillito -MDE-: Thank you, Miss Pic. I will take that into consideration about extending the comment period.

Bonnie Bick: Thank you very much.

Amanda Sigillito -MDE-: Thank you. All right. the public comments received during the public comment period will become part of the project file and will be considered by the department when rendering a decision on this application.

Amanda Sigillito -MDE-: On behalf of the Maryland Department of the Environment, I do appreciate your interest in this project and attendance at this evening' The hearing is now adjourned, but I will take the request to extend the public comment period and that information will be posted on our website. Again, thank you very much for attending the hearing. The hearing is now adjourned.

Meeting ended after 01:09:53 🖐️

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