STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER AND SCIENCE ADMINISTRATION
WATER QUALITY CERTIFICATION
22-WQC-0050

EFFECTIVE DATE: **February 23, 2023**

CERTIFICATION HOLDER: **National Park Service – C&O Canal National Historical Park**
142 W. Potomac Street
Williamsport, MD 21795
Attn: Joseph Reed

PROJECT LOCATION: **C&O Canal near Milepost 11, Montgomery County**

UNDER AUTHORITY OF SECTION 401 OF THE FEDERAL WATER POLLUTION CONTROL ACT AND ITS AMENDMENTS AND IN ACCORDANCE WITH §9-313 THROUGH §9-323, INCLUSIVE, OF THE ENVIRONMENT ARTICLE, ANNOTATED CODE OF MARYLAND, THE WATER AND SCIENCE ADMINISTRATION ("ADMINISTRATION") HAS DETERMINED THAT THE REGULATED ACTIVITY DESCRIBED IN THE REQUEST FOR CERTIFICATION FOR SEDIMENT REMOVAL WITHIN THE C&O CANAL AT SELECT LOCATIONS NEAR MILEPOST 11 ASSOCIATED WITH AUTHORIZATION 22-NT-3165, WILL NOT VIOLATE MARYLAND'S WATER QUALITY STANDARDS, IF CONDUCTED IN ACCORDANCE WITH THE CONDITIONS OF THIS CERTIFICATION AND WITH ALL TERMS AND CONDITIONS OF THIS CERTIFICATION.

THIS CERTIFICATION DOES NOT RELIEVE THE APPLICANT OF RESPONSIBILITY FOR OBTAINING ANY OTHER APPROVALS, LICENSES, OR PERMITS IN ACCORDANCE WITH FEDERAL, STATE, OR LOCAL REQUIREMENTS AND DOES NOT AUTHORIZE COMMENCEMENT OF THE PROPOSED PROJECT. A COPY OF THIS REQUIRED CERTIFICATION HAS BEEN SENT TO THE CORPS OF ENGINEERS. THE CERTIFICATION HOLDER SHALL COMPLY WITH THE CONDITIONS LISTED BELOW.

PROJECT DESCRIPTION

The purpose of this project is to prevent failure of the dry-stone wall, decrease sediment load entering the Canal, and prevent damage to the Potomac Interceptor. The proposed action is needed because sinkholes have formed behind the dry-stone wall, threatening the stability of the historic wall, towpath, canal, and Potomac Interceptor. The National Park Service is proposing to dredge the Chesapeake and Ohio Canal to a depth of approximately 4.5 feet from design water surface elevation (plus approximately one foot of overdepth) for a width of 40 feet along 2,507 feet of the canal, resulting in approximately 8,440 cubic yards of material consisting of accumulated alluvial sediment. Dredged material will be removed from the site to an upland disposal site. The project also includes rehabilitation of three tributaries entering the canal to reduce sediment load along a total of 445 linear feet, fill of an erosional feature along 39 linear feet, and stabilization of the historic wall. Access routes and pedestrian detours will temporarily impact 2,154 square feet of forested wetlands.

GENERAL CONDITIONS

1. The Certification Holder shall meet all water quality-related performance standards and conditions required by the Department in any state issued authorization for activities in Waters of the United States to ensure that any discharges will not result in a failure to comply with water quality standards in COMAR 26.08.02 or other water quality requirements of state law or regulation.

2. Structures and activities may not interfere with movement of aquatic life, fish, and other wildlife nor cause their entanglement.

3. When operating an intake structure, the Certification Holder shall use a screen having a nominal mesh size of 1 mm and an intake velocity not to exceed 0.5 ft/sec. during the Time of Year Restriction specified in the applicable Department authorization.

4. Non-native species may not be introduced with adverse effects on the aquatic ecosystem.

5. The proposed project shall be constructed in accordance with the approved final plan by the Department, or, if Department approval is not required, the plan approved by the Corps; and its approved revisions.

6. Activities which result in an earth disturbance subject to the requirements in Annotated Code of Maryland, Environment Article, Title 4 and COMAR 26.17.01 shall have an erosion and sediment control plan approved by the appropriate approval authority, including following the stabilization requirements set forth in COMAR 26.17.01.07 and "2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control," as may be amended.

7. The disturbance of the bottom of the waterway and sediment transport into adjacent State waters shall be minimized.

8. All fill and construction materials not used in the project shall be removed and disposed of in a manner which will prevent their entry into waters of this State.

9. The Certification Holder shall adhere to the construction time of year restrictions, unless waived or amended by the Department, as identified in a state authorization.

10. The Certification Holder shall obtain any and all additional authorizations or approvals, including self-certifying General Permits issued by the Department, and shall comply with all conditions of such authorizations.

11. This Certification does not obviate the need to obtain required authorizations or approvals from other State, federal or local agencies as required by law.

12. This Certification does not authorize any injury to private property, any invasion of rights, or any infringement of federal, state, or local laws or regulations.

13. The Certification Holder shall allow authorized representatives of the Department access to the site of authorized activities during normal business hours to conduct inspections and evaluations of the operations and records necessary to assure compliance with this Certification.

14. This Certification is valid for the project identified herein and the associated U.S. Army Corps of Engineers authorization until such time that it expires.

STATEMENTS OF NECESSITY AND CITATIONS

1. Statement of Necessity for General Conditions 1, 5, 10, 11: The condition is necessary to ensure that water quality standards are met and designated uses are maintained.

   Citations: Federal and state laws which authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.02B(1); 26.08.02.03B(1)(b); 26.08.02.03B(2)(e); COMAR 26.08.03.03-3.D; COMAR 26.17.04; COMAR 26.23; COMAR 26.23.02.06

2. Statement of Necessity for General Conditions 2, 3: Movement of aquatic life and passage of flows is essential for growth and propagation of aquatic life, fish, and other wildlife to meet these designated uses.

   Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10E; COMAR 26.08.02.02B(1); 26.08.02.03B(1)(b); 26.08.02.03B(2)(e); COMAR 26.17.01; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.17.04

3. Statement of Necessity for General Condition 4: Nuisance or non-native species may spread and disrupt and dislodge native species from their habitat, leading to declines in distribution, density, growth and propagation. This may result in failure to support native species; and growth, propagation of fish, other aquatic life, and wildlife. Limitations on loss will sustain habitat for a variety of aquatic species. In addition to direct loss, turbidity created by construction or ongoing operation must be limited for support of aquatic life and to meet water quality standards. The conditions ensure that discharges will not result in failure to support designated uses.

   Citations: COMAR 26.08; COMAR 26.08.02.02.B(5); COMAR 26.08.03.03-3.D; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.17.04

4. Statement of Necessity for General Condition 6, 7, 8: Fill or construction material within or adjacent to regulated resources or other earth disturbance may result in discharges that result in impacts to water quality, clarity, growth and propagation of fish, other aquatic life, wildlife, potable water; and other designated uses; and fail to meet general water quality criteria that waters not be polluted by substances in amounts sufficient to be unsightly or create a nuisance.

   Citations: Federal and state laws which authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10E; COMAR 26.08.02.02B(1); 26.08.02.03B(1)(b); 26.08.02.03B(2)(e); COMAR 26.17.01; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.17.04

5. Statement of Necessity for General Condition 8: Material within or adjacent to regulated resources may result in discharges that result in impacts to water quality and designated uses.

   Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.02B(1); 26.08.02.03B(1)(b); 26.08.02.03B(2)(e); COMAR 26.23.02.06; COMAR 27.17.04; COMAR 26.23

6. Statement of Necessity for General Condition 9: Restrictions on instream construction are necessary to protect designated uses for propagation and growth of fish, other aquatic life, and wildlife.

   Citations: Federal and state laws which authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.03-3.D; COMAR 26.23.02.06

7. Statement of Necessity for General Condition 9: The time of year restriction is necessary to maintain the designated use- support of water contact recreation, protection of nontidal aquatic life, and protection of waters which have the potential for or are suitable for the growth and propagation of self-sustaining trout populations and other coldwater obligate species including, but not limited to the stoneflies tallaperla and sweltsa.

   Citations: COMAR 26.08; COMAR 26.08.02.02.B(5); COMAR 26.08.03.03-3.D

8. Statement of Necessity for General Condition 12: The condition is necessary to clarify the scope of this certification to ensure compliance with water quality regulations, without limiting restrictions through other requirements.

   Citation: Federal and state laws which authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08, COMAR 26.08.02.10E; COMAR 26.23.02.06; COMAR 26.17.04; COMAR 26.23

9. Statement of Necessity for General Condition 13: Conditions of certification involve precise actions to comply with water quality standards. Site inspection may be necessary to ensure that limits, methods, and other requirements are met to ensure that water quality standards are met and designated uses are maintained. These conditions are necessary to ensure that the activity was conducted and project completed according to terms of the authorization/ certification, while allowing for review of in-field modifications which may have resulted in discharges to ensure that water quality standards were met.

   Citation: Federal and state laws which authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.02.B(5); COMAR 26.08.02.03B(1)(b); COMAR 26.08.02.03B(2); COMAR 26.08.03.03-3.D; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.17.04

10. Statement of Necessity for General Condition 14: This condition is necessary to qualify the period of applicability of the terms and conditions of this Certification to be protective of Maryland water quality standards.

    Citations: Federal and state laws which authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; 40 C.F.R. 121, 15 C.F.R. 930, Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.17.04

CERTIFICATION APPROVED

D. Lee Currey, Director
Water and Science Administration

2/24/2023
Date

Tracking Number: 202261158

Agency Interest Number: 173512

Effective Date: February 23, 2023

cc: WSA Inspection & Compliance Program
U.S. Army Corps of Engineers