



# Maryland

## Department of the Environment

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

Ben Grumbles, Secretary  
Horacio Tablada, Deputy Secretary

February 21, 2020

Re: Notice of Permit Decision  
Nontidal Wetlands and Waterways Permit Application  
Tracking Number 19-NT-0150/201960846

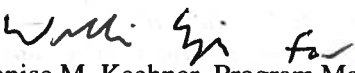
Dear Property Owner, Public Official, or Interested Person:

After examination and consideration of the documents received and evidence in the application file and record for the Phase II of the I-95 Section 200 Improvements, the Water and Science Administration has determined that the application meets the statutory and regulatory criteria necessary for issuance of a Nontidal Wetlands and Waterway Permit. Copies of the Notice of Decision, Summary of the Basis for Decision, Nontidal Wetlands and Waterways Permit, Impact Vicinity and Key Maps and the Water Quality Certification are enclosed with this permit decision. The plan view sheets that correspond to the Impact Vicinity and Key Maps are available at the MDE website under the Public Information heading using the following link: <http://mde.maryland.gov/programs/Water/WetlandsandWaterways/Pages/index.aspx> Hard copies can also be requested from the MDE Wetlands and Waterways office at 410-537-3456.

This is a final agency determination; there is no further opportunity for administrative review. Any person with standing, who is either the applicant or who participated in the public participation process through the submission or written or oral comments may petition for judicial review in the Circuit Court in the County where the permitted activity is to occur. The petition for judicial review must be filed within 30 days of the publication of the permit decision. Please see the attached Fact Sheet for additional information about the judicial review process.

If you have any questions or need any additional information, please do not hesitate to contact Amanda Sigillito, Chief, Nontidal Wetlands Division at 410-537-3766.

Sincerely,

  
Denise M. Keehner, Program Manager  
Wetlands and Waterways Program

as/dk

Enclosures

## **FACT SHEET JUDICIAL REVIEW PROCESS**

Permits can be challenged through a request for direct judicial review in the Circuit Court for the county where the activity authorized by the permit will occur. Applicants, and persons who meet standing requirements under federal law and who participated in a public comment process by submitting written or oral comments (where an opportunity for public comment was provided), may seek judicial review. Judicial review will be based on the administrative record for the permit compiled by the Department and limited to issues raised in the public comment process (unless no public comment process was provided, in which case the review will be limited to issues that are germane to the permit).

### **Who Has Standing?**

Anyone who meets the threshold standing requirements under federal law and is either the applicant or someone who participated in the public participation process through the submission of written or oral comments, as provided in Environment Article § 5-204, Annotated Code of Maryland. The three traditional criteria for establishing standing under federal law are injury, causation, and redressability, although how each criterion is applied is highly fact-specific and varies from case to case. Further, an association has standing under federal law to bring suit on behalf of its members when its members would otherwise have standing to sue in their own right, the interests at stake are germane to the organization's purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.

### **What is the Procedure for Seeking Judicial Review?**

Petitions for judicial review of a final determination or permit decision subject to judicial review must be filed in accordance with § 1-605 of the Environment Article no later than 30 days following publication by the Department of a notice of final determination or final permit decision and must be filed in the circuit court of the county where the permit application states that the proposed activity will occur. Petitions for judicial review must conform to the applicable Maryland Rules of Civil Procedure.

*To review the legislation follow the link below:*

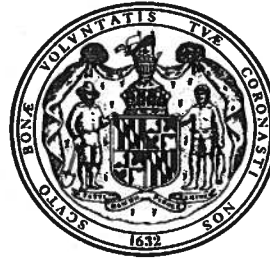
[http://mlis.state.md.us/2009rs/chapters\\_noln/Ch\\_650\\_sb1065T.pdf](http://mlis.state.md.us/2009rs/chapters_noln/Ch_650_sb1065T.pdf)

*For a complete list of permits that these procedures apply to follow the link below:*

[http://www.mde.state.md.us/programs/ResearchCenter/LawsandRegulations/Pages/ResearchCener/laws\\_regs/jrproc.aspx](http://www.mde.state.md.us/programs/ResearchCenter/LawsandRegulations/Pages/ResearchCener/laws_regs/jrproc.aspx)

**STATE OF MARYLAND**  
**DEPARTMENT OF THE ENVIRONMENT**  
**WATER AND SCIENCE ADMINISTRATION**  
**NOTICE OF DECISION**

**In the Matter of:** Maryland Transportation Authority  
Nontidal Wetlands and Waterways Permit  
Application Number 19-NT-0150/201960846



**Hearing Date:** November 14, 2019

**Hearing Location:** William Paca Elementary School  
2706 Philadelphia Road  
Abingdon, Maryland 21085

**Decision:** Approval

**Date:** February 21, 2020

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

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

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

Nontidal Wetlands and Waterways Permit Application 19-NT-0150/201960846 meets the criteria set forth in statute and regulation governing impacts to wetlands and waterways. Nontidal Wetlands and Waterways Permit Number 19-NT-0150/201960846 may be issued by the Water and Science Administration to authorize Maryland Transportation Authority Segment Nos. KH-3019, KH-3020, KH-3021, KH-3022, KH-3023, KH-3027, KH-3029, KH-3030, KH-3031 extending a two-lane express toll lane (ETL) on northbound I-95 from north of Old Joppa Road to Bynum Run, just south of MD 136, making safety and operational improvements along northbound I-95, relocating the existing Park and Ride at the interchange of I-95 and MD 152, constructing a new Park and Ride on MD 24, constructing two noise walls adjacent to northbound I-95 and two noise walls adjacent to southbound I-95, and providing a new Intelligent Transportation System communication system to improve operations and incident management along both northbound and southbound I-95; stream restoration at the Lilly Run Stream Mitigation Site and the Jones Falls Eccleston Mitigation Site; and use of temporary erosion and sediment controls. The approved work will result in impacts to 133,779 square feet of nontidal forested wetland, 7,563 square feet of nontidal scrub-shrub wetland, 31,038 square feet of nontidal emergent wetland, 2,298 square feet of nontidal forested/emergent wetland, 491,125 square feet of the 25-foot nontidal wetland buffer, 28,555 linear feet (254,750 square feet) of streams, and 210,636 square feet of 100-year nontidal floodplain. The project will temporarily impact 80,924 square feet of nontidal forested wetland, 6,258 square feet of nontidal scrub-shrub wetland, 84,413 square feet of nontidal emergent wetland, 235,373 square feet of the 25-foot nontidal wetland buffer, 107 linear feet (1,181 square feet) of streams, and 1,179,654 square feet of 100-year nontidal floodplain. The project is located on I-95 from north of Old Joppa Road to Bynum Run, just south of MD 136 in Harford County, with proposed mitigation sites in Baltimore and Harford Counties.

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

Denise M. Keehner  
Program Manager  
Wetlands and Waterways Program

## SUMMARY BASIS FOR DECISION

**Name of Applicant:**

Maryland Transportation Authority (MDTA)

**Application Number:**

19-NT-0150/201960846

**Project Manager:** Jennifer Bird

**Date of Decision:** February 21, 2020

The Environment Article, Annotated Code of Maryland and the Code of Maryland Regulations establish criteria for the Maryland Department of the Environment (Department or MDE) to consider when evaluating projects that propose to change the course, current, or cross section of a nontidal stream or other body of water or to impact a nontidal wetland. If the criteria are satisfied, the Department may issue a permit for the proposed activity. The Department may deny a permit for a waterway construction activity that it believes is inadequate, wasteful, dangerous, impracticable, or detrimental to the best public interest. The Department may not issue a nontidal wetland permit for a regulated activity unless it finds that the Applicant has demonstrated that a regulated activity, which is not water-dependent, has no practicable alternative, will minimize alteration or impairment of the nontidal wetlands, and will not cause or contribute to a degradation of ground or surface waters.

In the case of the proposed Phase II of the I-95 Section 200 Improvements, 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 (see Joint Federal/State Application for the Alteration of Any Floodplain, Waterway, Tidal, or Nontidal Wetland in Maryland [Application] dated May 1, 2019 and revised October 11, in file). The work includes extending a two-lane express toll lane (ETL) on northbound I-95 from north of Old Joppa Road to Bynum Run, just south of MD 543; safety and operational improvements along northbound I-95, relocation of the existing Park and Ride at the interchange of I-95 and MD 152, construction of a new Park and Ride on MD 24, construction of two noise walls adjacent to northbound I-95 and two noise walls adjacent to southbound I-95, and providing a new Intelligent Transportation System communication system to improve operations and incident management along both northbound and southbound I-95; wetland mitigation and /or stream restoration at the Lilly Run Stream Mitigation Site, Carsins Run Stream Mitigation Site, and the Jones Falls Eccleston Mitigation Site; and use of temporary erosion and sediment controls. This permit authorizes permanent impacts to 133,779 square feet of nontidal forested wetland, 7,563 square feet of nontidal scrub-shrub wetland, 31,038 square feet of nontidal emergent wetland, 2,298 square feet of nontidal forested/emergent wetland, 491,125 square feet of the 25-foot nontidal wetland buffer, 28,555 linear feet (254,750 square feet) of streams, and 210,636 square feet of 100-year nontidal floodplain. The project will temporarily impact 80,924 square feet of nontidal forested wetland, 6,258 square feet of nontidal scrub-shrub wetland, 84,413 square feet of nontidal emergent wetland, 235,373 square feet of the 25-foot nontidal wetland buffer, 107 linear feet (1,181 square feet) of streams, and 1,179,654 square feet of 100-year nontidal floodplain. The project is located on I-95 from north of Old Joppa Road to Bynum Run, just south of MD 136 in Harford County, with proposed mitigation sites in Baltimore and Harford Counties. Due to the schedule of the project, each segment is under a separate design schedule (e.g. Segments KH-3019, KH-3020, KH-3021, KH-3022, KH-3023, KH-3027, KH-3029, KH-3030, and KH-3031); however, the segments were permitted together as part of a single and complete project with independent utility. Therefore, the design is subject to change as the design schedules progress. Any changes relating to impacts shall be reviewed and approved by the Department as required by the Special Conditions of the Permit (see Nontidal Wetlands and Waterways Permit [Permit] dated January 22, 2020 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 public notice for this application was published in *The Jeffersonian* on October 29, 2019 and *The Aegis* on October 30, 2019. Project plans were made available at the Baltimore County Public Library, Owings Mills Branch (10320 Grand Central Avenue, Owings Mills, Maryland 21117), the Harford County Public Library, Joppa Branch (655 Towne Center Drive, Joppa, Maryland 21085), the Harford County Public Library (120 N. Union Avenue, Havre de Grace, Maryland 21078), and online at <https://mde.state.md.us/programs/water/WetlandsandWaterways/AboutWetlands/Pages/pubnotj01.aspx> (see Certificate of Publications, November 2019 and Public Notice, in file).

A public informational hearing was held on November 14, 2019 at the William Paca Elementary School at 2706 Philadelphia Road, in Abingdon, Maryland. Comments were provided during the public notice period, during the public informational hearing, and additional correspondence was received prior to the closure of the formal record on November 28, 2019 either via phone, letter, or email. Comments received during the public comment period included a question from a property owner about how the mitigation sites were chosen and why the majority of the mitigation is proposed at the Eccleston mitigation site in Baltimore County. No other comments relating to wetland or waterway impacts were received (see Public Hearing Transcript dated November 14 2019, in file). Responses to comments during the public comment within the Department's purview will be addressed in the appropriate sections that follow. No questions or comments were received from the public at the public informational hearing.

Leading up to the hearing, MDTA engaged in public outreach efforts starting in September of 2019, which included targeted stakeholder meetings, public update meetings, HOA meetings, and ongoing website outreach.

## **PROJECT PURPOSE AND NEED**

In order for the Department to authorize impacts to nontidal wetlands and their regulated buffers, regulated activities must be determined to be necessary and unavoidable to meet the basic project purpose. It is also important to note that the orderly development and use of land is regulated through planning and zoning controls implemented by the local government. In this particular instance, Baltimore and Harford Counties make the decision about appropriate land use of the property.

The primary need for this project is to address capacity and safety needs along Section 200 of I-95 in Baltimore and Harford Counties. The purpose of this project is to address these needs and improve access, mobility, and safety for local, regional, and inter-regional traffic, including passenger, freight, and transit vehicles. The MDTA plans to address the project need in Phase II of the I-95 Section 200 Improvements by extending a two-lane ETL on northbound I-95 from north of Old Joppa Road to Bynum Run, just south of MD 136, making safety and operational improvements along northbound I-95, relocating the existing Park and Ride at the interchange of I-95 and MD 152, constructing a new Park and Ride on MD 24, constructing two noise walls adjacent to northbound I-95 and two noise walls adjacent to southbound I-95, and providing a new Intelligent Transportation System communication system to improve operations and incident management along both northbound and southbound I-95. The need for this project was identified in the I-95 Master Plan, which was adopted by MDTA in April of 2003. This master plan identified four independent projects for each section of I-95 that MDTA owns and operates in the state of Maryland, one of which being Section 200, and presented long-range transportation needs that establish clear goals for system maintenance, preservation, and enhancement (see Application dated May 1, 2019, revised October 11, 2019, and Section 200 Finding of No Significant Impact [FONSI] dated December 2010, in file).

The Applicant determined that there is insufficient capacity along Section 200 of I-95. The southbound lanes of I-95 between MD 43 and MD 24 operate at a Level of Service D to E during the morning peak hours and the northbound lanes operate at a Level of Service E during PM peak hours. On Friday and weekend peak periods, traffic is operating at full capacity. Congestion is expected to grow from less than 10 to over 30 hours per week by the year 2030, which is a 300 percent increase. By 2030, weekend peak hours for Section 200 are projected to operate at a Level of Service F (see Section 200 FONSI dated December 2010, in file).

The Applicant also considered safety concerns when identifying the need for this project. MDTA identified the crash rate for Section 200 as approximately 12 percent higher than the rate of similar state-maintained highways. Crashes identified as congestion related, including side-swipes and rear-ends, account for 50 percent of the crashes reported between 2002 and 2004. Section 200 has been identified with 34 Candidate Safety Improvement Locations (CSILs) by SHA. MDTA has determined that an increase in the number and severity of congestion related crashes are likely to increase if Section 200 congestion levels are not addressed (see Section 200 FONSI dated December 2010, in file).

As part of the FONSI Reevaluation, the Applicant conducted additional analysis and studies in 2017 and 2018 to prioritize the immediate congestion, safety, and operational concerns of the corridor, which resulted in the current project (see Section 200 Reevaluation dated May 2018, 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.

Three alternatives were chosen to be carried forward as a part of the Alternatives Retained for Detailed Study in the Section 200 FONSI. These alternatives were chosen based upon public feedback, engineering traffic analysis, right-of-way impacts, environmental impacts, and viability and interchange options. During the development of these alternatives, MDTA coordinated with BMC and Maryland Transit Administration (MTA) on potential maximum transit ridership. MTA's transit plan for this part of the region includes the Maryland Rail Commuter Investment Plan and express/local bus service enhancements. A separate rail facility was not included within MTA or BMC's regional transit improvements along this I-95 corridor. Therefore, improving intermodal connectivity, including access to the existing transit and rail network, was the primary focus for determining this project's selected alternative (see Section 200 FONSI dated December 2010, email from MDTA dated August 6, 2018, and Comment Response Letter dated August 15, 2018, in file).

Alternative 1, a no-build option, would have allowed for maintenance improvements and safety upgrades including replacement of bridge decks, resurfacing of pavement, and replacement and upgrades to traffic barriers, signs and lights, while retaining the existing I-95 highway. This alternate was rejected because it would not fulfill the purpose and need of the project (see Section 200 FONSI dated December 2010, in file).

The second alternative was the General Purpose Lanes (GPL) Alternative, which included constructing additional GPLs along the mainline of I-95 from north of MD 43 to north of MD 22 to accommodate the proposed traffic demand. This alternative would create a total of six GPLs in each direction from the northern limit of the I-95 ETLs Project to the MD 24 interchange. This alternative would improve the

configuration at the MD 152, MD 24, MD 543 and MD 22 interchanges. The GPLs Alternative was not chosen as the selected alternative because the number of accessible travel lanes would make it difficult to implement a travel demand management program. Based on the FONSI, this option would increase congestion levels on all lanes, and has less incentive for transit or carpooling. Additionally, this alternative created the need for drivers to weave in and out of five to six lanes to exit the highway. This creates more opportunities for crashes to occur and difficulty for disabled vehicles to access the shoulder (see Section 200 FONSI dated December 2010, in file).

The third option, which was chosen as the selected alternative, included adding ETLs to the existing roadway to accommodate the anticipated traffic demand. Under this alternative, I-95 would have four GPLs and two ETLs in each direction, extending from just north of MD 43 to MD 24. This alternative also proposed improvements to the configuration of the MD 152 and MD 24 interchanges. The selected alternative would provide congestion management through a consistently congestion-free travel option, which would continue to be available even as traffic volumes increase over time. The ETLs are anticipated to operate at a superior Level of Service compared to the Level of Service the GPLs in both alternatives by providing predictable and dependable travel times and speeds. Additionally, GPL drivers maximum weave is four lanes and ETL drivers is one lane, which reduces opportunities for crashes and provides easier access to the shoulder for disabled vehicles (see Section 200 FONSI dated December 2010, in file).

Since the selected alternative was determined, no major changes to the design have been made and only minor design changes have occurred; however, funding, as well as a series of analyses and studies conducted in 2017 and 2018 were considered when determining how to prioritize the Section 200 improvements and the project was split into two Phases. The current project is referred to as Phase II of the Section 200 improvements which includes the area from north of Old Joppa Road to Bynum Run, just south of MD 136. The current design for Phase II includes extending a two-lane ETL on northbound I-95 from north of Old Joppa Road to Bynum Run, just south of MD 136; safety and operational improvements along northbound I-95, relocation of the existing Park and Ride at the interchange of I-95 and MD 152, construction of a new Park and Ride on MD 24, construction of two noise walls adjacent to northbound I-95 and two noise walls adjacent to southbound I-95, and providing a new Intelligent Transportation System communication system to improve operations and incident management along both northbound and southbound I-95 (see Section 200 FONSI dated December 2010 and Section 200 Reevaluation dated May 2018, 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, and the 100-year frequency floodplain are necessary and unavoidable.

The Applicant has taken measures to avoid and minimize impacts to regulated resources to the greatest extent practicable while still meeting the purpose and need of the project. During the planning and design phases, the following design changes were made in order to avoid and minimize impacts: the proposed Intelligent Transportation System fiber-optic cable installation will occur parallel to I-95 between the guardrail and the light poles, where the least natural resources are present; retaining walls have been incorporated to reduce slope impacts; side slopes are being designed at 2:1 in areas of fill and 2.5:1 in areas of cut; roadway shoulders have been reduced in width from the American Association of State Highway and Transportation Officials preferred width to the minimum width; impacts to high quality wetlands are being avoided where possible through redesign of stormwater management, environmental site design, and highway facilities, and where practicable, impacted streams will be relocated to newly established toes of slope; so far three streams have already been identified as candidates for relocation.

To date, the limits of disturbance within contracts KH-3019, KH-3020, and KH-3021 have been reduced by shifting the alignment into the median where possible, increasing embankment slopes, and identifying the location of a proposed noise wall. Additionally, a number of opportunities have been identified to relocate streams to the new toe of slope, allowing the impacts to be replaced in kind and onsite (see Application dated May 1, 2019, revised October 11, 2019 and Avoidance and Minimization of Impacts Memo, in file).

MDTA has determined that the proposed impacts are unavoidable in order to meet the purpose and need of the project. The majority of proposed impacts are associated with proposed widening, stormwater management practices, Park and Ride facilities on MD 152 and MD 24, and noise walls required to mitigate noise impacts to adjacent communities. The majority of resources being impacted are lower quality. MDTA anticipates that stormwater management practices will improve the quality of adjacent resources that currently receive large amounts of unattenuated stormwater runoff from I-95. The impacts due to outside widening along I-95 between MD 152 and Bynum Run are unavoidable due to site constraints and drainage conflicts. Oversized headwalls will be used to reduce the length of the culvert extensions in order to minimize stream impacts. MDTA proposes to use the steepest slopes allowable on the backside of required Environmental Site Design facilities to reduce wetland impacts and soil disturbance. Several channels located along the I-95 roadway embankment will be relocated and stabilized onsite instead of being piped (see Application dated May 1, 2019, revised October 11, 2019 and Avoidance and Minimization of Impacts Memo, in file).

The design is subject to change due to the design schedule and phasing of this project and any changes relating to impacts will be reviewed and approved by the Department. MDTA is investigating additional avoidance and minimization measures as the design progresses, including use of additional retaining walls, directional drilling of fiber-optic cable beneath resources, and in-kind replacement of regulated roadside ditches onsite. Special Condition No. 1 has been included in the Permit in order to ensure avoidance and minimization measures continue throughout the design-build and construction process. The Permit also requires strict adherence to the "Best Management Practices for Working in Wetlands and Waterways" in Special Condition No. 3. (see Application dated May 1, 2019, revised October 11, 2019 and Avoidance and Minimization of Impacts Memo and Permit dated December 30, 2019, in file). The Department has determined that the applicant has and will continue to minimize impacts to nontidal wetlands and waterways to the extent practicable.

## **WATER QUALITY**

Erosion and sediment control measures and stormwater management practices are designed to prevent the degradation of ground and surface water quality. Sediment pollution is addressed under Maryland's Erosion and Sediment Control Act. The law mandates local Soil Conservation Districts to review and approve erosion and sediment control plans developed in accordance with State standards. The Department's programmatic responsibilities are limited to promulgating regulations, and developing standards, ordinances, and other criteria necessary to administer an erosion and sediment control program, including program oversight and delegation of enforcement authority to local governments. As a result, Maryland Department of the Environment is responsible for the review and approval of an erosion and sediment control plan for the proposed project.

Stormwater discharges are addressed under Maryland's Stormwater Management Act. The law requires counties and municipalities to "adopt ordinances necessary to implement a stormwater management program." The Department's programmatic responsibilities are limited to promulgating regulations defining the minimum features of a stormwater ordinance and program oversight. The Department also reviews the stormwater management program of the counties and municipalities and their field implementation and requires corrective action where a program is found deficient. For most projects,



compliance with the County-issued stormwater management approval ensures that the project will not degrade water quality, but for projects affecting Tier II waters, the Department will require a separate anti-degradation analysis. In this particular case, however, the Department is responsible for the review and approval of the project's stormwater management plan.

Stormwater Management for the project will be provided in accordance with the Maryland Stormwater Management and Erosion & Sediment Control Guidelines for State and Federal Projects, February 2015 and the 2000 Maryland Stormwater Design Manual, with revisions based on the Stormwater Management Act of 2007 requiring environmental site design (ESD) to the Maximum Extent Practicable (MEP). At a minimum, water quality management will be required for 1-inch of rainfall over 100 percent of the proposed new impervious area and 50 percent of the proposed reconstructed impervious area. Runoff will be treated using MDE approved ESD practices including, but not limited to, bio-swales, grass channels, micro-bioretenment, rain gardens, and submerged gravel wetlands, which includes treatment of runoff and additional de-icing materials needed for the increased number of travel lanes. In addition, full ESD volume (ESD<sub>v</sub>) will be provided to the MEP. The ESD standard is met when the post-development hydrology is restored to natural hydrologic conditions assuring channel stability is maintained, pre-development groundwater hydrology is replicated, and nonpoint source pollution is minimized for the 1-year 24-hour frequency storm event. This requires capturing and treating from 1 inch to 2.6 inches of rainfall depending on the site conditions. Where practicable the ESD practices will be sized to manage the required ESD<sub>v</sub>. As needed, structural practices, including detention ponds and underground detention facilities, will be designed to provide Channel Protection volume (CP<sub>v</sub>) where the full ESD<sub>v</sub> cannot be provided in the ESD practices. CP<sub>v</sub> is 12- or 24- hour extended detention of the post-developed 1-year, 24-hour storm event (See email from MDTA Project Manager dated July 16, 2018, in file).

During the application review process, the Department verifies that appropriate Best Management Practices are incorporated into the Sediment and Erosion Control Plans and the Stormwater Management Plans as listed above to protect the State's water resources. The Applicant proposes to incorporate appropriate Best Management Practices during construction to meet State water quality standards. The Applicant's plans will include a detailed sequence of construction with staged erosion and sediment control measures and construction work. Special Conditions Nos. 4-8 and 10 have been included in the Permit to require MDTA to submit all plans for Department review and approval prior to construction in regulated resources (see Permit dated December 30, 2019, in file).

Streams adjacent to this project are designated as Use I (Haha Branch, James Run, and unnamed tributaries to Gunpowder Falls), Use I-P (Winters Run and its tributaries), and Use III (Little Gunpowder Falls and Bynum Run and their tributaries). Maryland Department of Natural Resources (DNR) Environmental Review Program reviewed this project and stated that Little Gunpowder Falls and Bynum Run support anadromous fish species, including Yellow Perch. No in-stream work is permitted during the period of March 1 to June 15 in Use I and I-P streams, inclusive, during any year; October 1 through April 30 in Use III streams, inclusive, during any year; February 15 through June 15 in Use I streams with the presence of Yellow Perch, inclusive, during any year; and October 1 through June 15 in Use III streams with the presence of Yellow Perch, inclusive any year. The design plans will be reviewed by the Department prior to construction of the culvert extensions and/or replacement, bridge widenings, and stream relocation and/or restoration, and in accordance with COMAR 26.17.04 (Construction on Nontidal Waters and Floodplains). Hydrology and Hydraulic reports for the project shall be submitted to the Department for approval prior to any bridge widening, culvert extension or replacement, and/or stream relocation and restoration in-stream construction as required by Special Condition Nos. 7 and 8 of the Permit (see DNR Environmental Review Program Letters dated October 6, 2017, March 15, 2019, May 6, 2019, May 14, 2019, and July 31, 2019, Application dated May 1, 2019 (revised October 11, 2019) in file).

#### *Tier II Antidegradation Review*

Maryland is required by the Clean Water Act to develop policies, guidance, and implementation procedures to protect and maintain existing high quality waters such as Tier II waters and prevent degradation of existing water quality conditions. Tier II waters have chemical or biological characteristics that are significantly better than the minimum water quality requirements. All Tier II designations in Maryland are based on having healthy biological communities of fish and aquatic insects. Enhanced erosion and sediment control measures are required along the Tier II corridor in order to meet the State's antidegradation policy and to protect and maintain existing high quality waters.

A portion of the project from MD 152 to MD 24 is located within the Otter Point Creek 1 Tier II Catchment. This catchment has been determined to have No Remaining Assimilative Capacity and any impacts to the catchment require antidegradation review by the Department. MDTA is required to incorporate best management practices for working in Tier II catchments into their erosion and sediment/stormwater designs to the maximum extent possible per the Department's direction. Additionally, MDTA shall replant up to 58.78 acres within the Otter Creek 1 Tier II Catchment, or as amended by the revised Checklist. The location of the plantings shall be onsite, or on sites approved by MDE. The Permittee shall continue to work with MDE and Harford County on the location of the plantings as noted previous correspondence for Phase I of the I-95 ETL Northbound Mitigation Project. The Permittee shall submit the final location of the Tier II plantings to the Department within 60 days of finalizing the location and planting plan. Special condition 2 has been added to the Permit regarding these requirements (see Permit dated December 30, 2019). The Department has determined that the project is consistent with State water quality requirements.

## **ENDANGERED SPECIES**

Once the application is received, it goes through a screening process. This screening process uses Geographical Information System to determine the proposed site location and whether or not there are designated resources in the area such as rare, threatened or endangered species. If there are resources identified, the Division sends copies of the proposed plan to the appropriate agencies to review and send comments.

The GIS screening identified rare, threatened or endangered species within the project area (see Application dated May 1, 2019, revised October 11, 2019, in file). Maryland Department of Natural Resources (DNR) Wildlife and Heritage Service (WHS) determined there were no state records for listed plant or animal species within the Phase 2 of I-95 Section 200 project area. The United States Fish and Wildlife Service (USFWS) determined there was one federal record for rare, threatened, or endangered species within the vicinity of the Phase 2 of I-95 Section 200 project. The Northern Long-eared Bat (*Myotis septentrionalis*) is listed in the vicinity of the project area. However, on June 10, 2019, USFWS stated via letter that the projects as proposed are "not likely to adversely affect" the northern long-eared bat because these proposed projects have forest clearing activities that are exempted under the 4(d) Rule for federal actions that may affect the northern long-eared bat. DNR WHS had no comments regarding impacts to rare, threatened, and endangered species from the work as proposed in the Application (see MDNR WHS Letters dated October 10, 2017, March 15, 2019, May 6, 2019 May 14, 2019, and July 31, 2019, Comment Response Letter emailed June 21, 2019, and USFWS Online Certification Letters dated April 8 and 11, 2019).

In letters dated October 10, 2017, May 6, 2019, and July 31, 2019, DNR WHS determined there are no State or federal records for listed plant or animal species within the vicinity of the mitigation sites. On March 20, 2019 and April 23, 2019 respectively, USFWS determined there is one federal record for listed plant or animal species within the vicinities of the Lilly Run Mitigation Site and the Eccleston Mitigation Site. The Northern Long-eared Bat (*Myotis septentrionalis*) is recorded within the boundaries of the project areas. However, on June 10, 2019, USFWS stated via letter that the projects as proposed are "not likely to

adversely affect” the northern long-eared bat because these proposed projects have forest clearing activities that are exempted under the 4(d) Rule for federal actions that may affect the northern long-eared bat.

## **HISTORIC PRESERVATION**

The application was also screened using GIS for historical and archeological resources. The GIS screening identified potential historic properties within the project area (see Application dated May 1, 2019, revised October 11, 2019, in file). On April 12, 2019, MDTA notified the Maryland Historic Trust (MHT) that the project may have an effect on historic properties. Several historic properties and archeological resources were identified from the National Register of Historic Places and the Maryland Inventory of Historic Properties. On May 22, 2019, MHT determined no historic properties will be affected by the project or the final mitigation sites (Jones Falls at Eccleston, Carsins Run, and Lilly Run). (see Application dated August 28, 2019 and MHT coordination dated September 19, 2017 and May 22, 2019, in file, as well as the Permit for I-95 Section 200 Phase I).

## **MITIGATION**

Mitigation is only a consideration in a permit decision after steps have been taken to avoid and minimize impacts to nontidal wetlands and their regulated buffers, and nontidal waterways, including the 100-year floodplain. The Permittee is required to mitigate for the loss of 133,779 square feet of forested nontidal wetland, 7,563 square feet of scrub-shrub nontidal wetland, 31,038 square feet of emergent nontidal wetland, 2,298 square feet of forested/emergent nontidal wetland, and 13,213 linear feet of streams by creating the equivalent of at least 267,558 square feet of forested nontidal wetland, 15,126 square feet of scrub-shrub nontidal wetland, 31,038 square feet of emergent nontidal wetland, 4,596 square feet of forested/emergent nontidal wetland, and restoring 13,213 linear feet of perennial and intermittent streams. Permanent impacts to wetlands at the stream restoration sites will be replaced at each respective site (see Application dated May 1, 2019, Phase II Mitigation Plan dated August 2019, updated October 2019, Permit dated December 30, 2019, and the Phase II Mitigation Approval Letter dated December 30, 2019, in file).

During the comment period following the public hearing, a question was raised in regards to how the mitigation sites were chosen and why the majority of the mitigation will occur at the Eccleston Site in Baltimore County. Per EPA’s 2008 Compensatory Mitigation Rule, in the absence of an approved mitigation bank or potential for on-site mitigation, compensatory mitigation within the same 8-digit HUC watershed for any unavoidable impacts is to be prioritized. Both the impacts and the Eccleston Site are located within the Gunpowder-Patapsco watershed (02060003). The mitigation site search process is described below.

Based on the Compensatory Mitigation Plan provided by MDTA, a mitigation plan was previously created in 2012 for the Section 200 ultimate build-out. A mitigation site search was conducted using GIS, aerial imagery, and field reviews. The MDTA also coordinated with multiple agencies to identify existing opportunities, perform field reconnaissance, and assess the sites; those agencies included USACE, MDE, DNR, the National Marine Fisheries Service, the USFWS, the Environmental Protection Agency (EPA), the US Department of Agriculture, and the Harford County Department of Planning and Public Works.

Of the sites identified in the 2012 mitigation plan, potential on-site mitigation was prioritized. On-site mitigation included perennial and intermittent concrete-lined systems within Section 200 that were identified for replacement with naturalized channels. Of these previously identified concrete-lined systems, only WUS 25B is located within the current project extents and would be feasible for naturalization. However, this stream was reviewed with MDE and USACE during the Phase II pre-application meeting. At that time, MDE and USACE determined that waters of the US 25B was not a high priority for mitigation,

since the stream appears to not provide habitat for fish, is stable in its current condition, and does not have much potential for increased sinuosity.

The previous mitigation plan also included proposed stream mitigation at Carsins Run, waters of the US 14E, Grays Run, and Winters Run, all of which were considered on-site mitigation due to their location within Section 200. Carsins Run is included in this mitigation package. Waters of the US 14E and Grays Run are located outside of the Phase II project area, but within the Section 200 ultimate build-out; therefore, mitigation at these locations will be pursued in future phases to ensure that stream restoration design and roadway design do not conflict. Concrete removal along the stream banks at Winters Run was considered as part of the current mitigation package but was ultimately determined to be not feasible or practicable, considering the potential for compromising the existing embankments beneath the bridge.

Any mitigation effort requiring acquisition of right-of-way would not be able to meet the accelerated Phase II project schedule. Due to these time constraints, off-site mitigation opportunities identified within the previous mitigation plan are not being pursued

In 2019, additional on-site mitigation was identified in the form of roadside streams that can be replaced in-kind at the new toe-of-slope where possible. Where stream relocation potential has been identified, these impacts have not been counted towards mitigation requirement totals, since it is anticipated that the impacts will be mitigated on-site, in-kind through the relocation. Several such opportunities have been identified, and additional opportunities for relocation will be sought as design of the various contracts progresses.

Waters of the US F-1 was identified as a potential onsite mitigation opportunity; it is a degraded stream located on the Izaak Walton League property, which will be purchased to allow construction of the MD 24/MD 924 Park and Ride facility. Debris that was deposited, apparently predating the Clean Water Act, can be observed within the stream, including shingles and concrete, and portions of the stream embankment are unstable. However, site constraints, including a sewer line, narrow stream valley, and close proximity to adjacent properties, limit the quality of mitigation that could be accomplished at this location. In addition, it is unknown what hazards the previously deposited materials may pose to workers. Therefore, the MDTA has decided not to pursue mitigation at this location.

Whitemarsh Run is another MDTA-owned site and was discussed as a source of wetland mitigation credit. Excess wetland credits were created there as part of Section 100 mitigation. However, following the completion of Section 100 and the allocation of credits for Phase I of the I-95 ETL Northbound Extension Project, it was determined that insufficient additional wetland credits remain at this site to include it in the mitigation package for Phase II of the I-95 ETL Northbound Extension Project.

The MDTA reached out to Harford County, DNR, and USACE for potential mitigation sites. The sites provided by Harford County were either located on private property or too small in size to be feasible compensatory mitigation projects. DNR identified the Piney Run mitigation site in Carroll County, which was considered as part of the current mitigation package. However, due to extensive encumbrance by an existing sewer line and the presence of historically dumped coal ash, USACE determined that the Piney Run site would not provide viable mitigation.

USACE identified the Lilly Run stream restoration sites during the mitigation site search for Phase I of I-95 ETL Northbound Extension Project. All four phases of Lilly Run are high priority for the City of Havre de Grace, due to ongoing flooding concerns; therefore, all phases of Lilly Run are proposed to be completed to fulfill a portion of the compensatory mitigation required for Phase II of the I-95 Northbound Extension Project.

Finally, the Eccleston mitigation site in Baltimore County was identified as a large, high-quality site that would provide extensive wetland and stream mitigation credit. This project will include large-scale restoration of an upper-watershed, heavily agriculture-impacted portion of Jones Falls and its floodplain, as well as preservation of adjacent high-quality wetlands and stream. The proposed mitigation will include restoration of multiple first-order tributaries, significant second- and third-order tributaries, and substantial quantities of floodplain wetlands. Restoration of one large, cohesive system is generally considered to result in greater ecological lift than restoration of several smaller, disconnected sites.

The Eccleston Site's location within the upper portion of the watershed is advantageous, as restoration at the site will not only improve water quality onsite but also contribute to improved water quality downstream. Eccleston is also located within a reach of Jones Falls that provides trout spawning waters, although much of the site currently does not provide adequate habitat due to agricultural impacts. In general, the Eccleston Site provides an opportunity to restore functions and values unique to this site via perpetually protecting and restoring spawning waters for Jones Falls, removing the historic impairments resulting from dairy farming (including a piped diversion of a tributary to Jones Falls), and protecting high-quality existing wetlands as well as restoring adjacent connected streams and wetlands previously lost and/or impaired by land use. Design at this site is at an advanced stage and can be constructed quickly. For these reasons, the MDTA decided to pursue the Eccleston Site for mitigation credit.

Wetland mitigation will occur at the Jones Falls Eccleston Mitigation Site and the Lilly Run Stream Restoration Site. The Jones Falls Eccleston Mitigation Site is located adjacent to Greenspring Valley Road and Park Heights Avenue in Baltimore County, and the Lilly Run Stream Restoration Site is located west of South Juniata Street in Harford County. At the Jones Falls Eccleston Mitigation Site, wetlands will be preserved, enhanced, and created. At the Lilly Run Restoration Site, a floodplain/wetlands complex will be created with the stream restoration. The two wetland mitigation sites will provide 632,056 and 82,764 square feet of wetland mitigation credit, respectively (see Phase II Mitigation Plan dated August 2019, updated October 2019, Phase II Mitigation Plan Approval Letter dated December 30, 2019, and Permit dated December 30, 2019). Stream mitigation will also occur at the Jones Falls Eccleston Mitigation Site, the Lilly Run Stream Restoration Site, and the Carsins Run Stream Restoration Site. At the Jones Falls Eccleston Mitigation Site, MDTA will receive 9,738 linear feet of credit for restoration within the Jones Falls and its tributaries. At the Lilly Run Stream Restoration Site, MDTA will receive 2,767 linear feet of credit for restoration within Lilly Run, some of which was re-allocated from the Phase I ETL project. The Carsins Run Stream Restoration Site was permitted and approved during Phase I of the I-95 Section 200 project. There will be additional credits available at Carsins Run that were not used in Phase I and will be applied to Phase II. MDTA will use 960 LF of stream restoration credits for Phase II (see Phase II Mitigation Plan dated August 28, 2019, updated October 2019, and the Phase II Mitigation Approval Letter dated December 30, 2019, in file).

MDTA is responsible for monitoring and ensuring successful performance of the compensatory mitigation sites. The Permittee must propose specific monitoring and performance standards based on the goals of the mitigation project for the Department's approval. Annual stream monitoring of the Lilly Run and Carsins Run Stream Restoration sites will be conducted for a period of 10 years, with Monitoring Reports submitted to the Department on years 2, 3, 5, 7, and 10 by December 31 of each year. Changes in channel cross-section, pattern and profile, bed materials, channel stability, structure stability and condition, and vegetation viability will be evaluated through the monitoring. Monitoring reports will contain the project overview and assessment; monitoring requirements and performance standards; summary of data collected during each monitoring visit including photos, vegetation success, soils and hydrology data; maps and plans showing data points, photo locations, and other pertinent features of the project site; and conclusions discussing the progress of the mitigation site, potential remediation measures, and whether performance standards are being met. Annual monitoring reports for the Eccleston Mitigation Site shall be submitted for years 2, 3, 5, 7, and 10 following completion of construction and planting of the mitigation site are required

to be submitted to the Department by December 31 of each year. Reports will include performance of wetland vegetation in the created and enhanced wetland areas, development of hydrology and soils in the created wetland area, documentation of invasive species throughout the site, and documentation of problem areas identified with potential corrective remedial measures (see Phase II Mitigation Plan dated August 2019, updated October 2019, and Phase II Mitigation Approval Letter dated December 30, 2019, in file). All submittals will be in accordance with the Phase II Mitigation Approval Letter and the Phase II Mitigation Plan.

MDTA will continue to monitor and manage each mitigation site until each has met performance standards and been deemed to be self-sustaining by the Department. MDTA is the responsible party for long-term management of each site. MDTA will implement adaptive management strategies if necessary by working with the Department to agree upon and implement corrective measures, which could include options such as invasive species management, and installation of monitoring devices to sure hydrology is adequate. As a state agency, MDTA has been financially assured to construct Phase II of the I-95 Section 200 Improvements project, which includes compensatory mitigation construction and monitoring and long-term maintenance of each mitigation site (see Phase II Mitigation Plan dated August 2019, updated October 2019, and Phase II Mitigation Approval Letter dated December 30, 2019, in file).

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

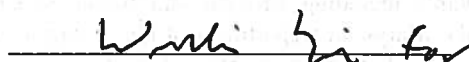
PERMIT NUMBER: 19-NT-0150/201960846  
EFFECTIVE DATE: February 21, 2020  
EXPIRATION DATE: February 21, 2030  
PERMITTEE: Maryland Transportation Authority  
8019 Corporate Drive, Suite F, Baltimore, MD 21236  
Attn: Mr. Brian Wolfe



IN ACCORDANCE WITH ENVIRONMENT ARTICLE §5-503(a) AND §5-906(b), ANNOTATED CODE OF MARYLAND (2007 REPLACEMENT VOLUME), COMAR 26.17.04 AND 26.23.01, AND 26.08.02 AND THE ATTACHED CONDITIONS, MARYLAND TRANSPORTATION AUTHORITY ("PERMITTEE"), IS HEREBY AUTHORIZED BY THE WATER AND SCIENCE ADMINISTRATION ("ADMINISTRATION") TO CONDUCT A REGULATED ACTIVITY IN A NONTIDAL WETLAND, BUFFER, OR EXPANDED BUFFER, AND/OR TO CHANGE THE COURSE, CURRENT OR CROSS-SECTION OF WATERS OF THE STATE, IN ACCORDANCE WITH THE ATTACHED PLANS APPROVED BY THE ADMINISTRATION ON NOVEMBER x, 2019 ("APPROVED PLAN") AND PREPARED MARYLAND TRANSPORTATION AUTHORITY AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

Regulated activities are associated with Phase II of the I-95 Section 200 roadway improvements under MDTA Segment Nos. KH-3019, KH-3020, KH-3021, KH-3022, KH-3023, KH-3027, KH-3029, KH-3030, KH-3031, and the associated mitigation sites. The work includes extending a two-lane express toll lane (ETL) on northbound I-95 from north of Old Joppa Road to Bynum Run, just south of MD 136, making safety and operational improvements along northbound I-95, relocating the existing Park and Ride at the interchange of I-95 and MD 152, constructing a new Park and Ride on MD 24, constructing two noise walls adjacent to northbound I-95 and two noise walls adjacent to southbound I-95, and providing a new Intelligent Transportation System communication system to improve operations and incident management along both northbound and southbound I-95; stream restoration at the Lilly Run Stream Mitigation Site and the Jones Falls Eccleston Mitigation Site; and use of temporary erosion and sediment controls. The approved work will result in permanent impacts to 133,779 square feet of nontidal forested wetland, 7,563 square feet of nontidal scrub-shrub wetland, 31,038 square feet of nontidal emergent wetland, 2,298 square feet of nontidal forested/emergent wetland, 491,125 square feet of the 25-foot nontidal wetland buffer, 28,555 linear feet (254,750 square feet) of streams, and 210,636 square feet of 100-year nontidal floodplain. The project will temporarily impact 80,924 square feet of nontidal forested wetland, 6,258 square feet of nontidal scrub-shrub wetland, 84,413 square feet of nontidal emergent wetland, 235,373 square feet of the 25-foot nontidal wetland buffer, 107 linear feet (1,181 square feet) of streams, and 1,179,654 square feet of 100-year nontidal floodplain. The project is located on I-95 from north of Old Joppa Road to Bynum Run, just south of MD 136 in Harford County, with proposed mitigation sites in Baltimore and Harford Counties.

MD Grid Coordinates N 198940± E 459382±

  
Denise M. Keehner  
Program Manager  
Wetlands and Waterways Program

Attachments: Conditions of Permit  
Best Management Practices  
Impact Plates  
cc: MDE Compliance Program  
Steve Elinsky, US Army Corps of Engineers

**SPECIAL CONDITIONS**

1. **Avoidance and minimization:** Avoidance and minimization of impacts to wetlands, wetland buffers, waters, and the regulated floodplain shall be emphasized throughout the remainder of the design and construction process. Continue avoidance efforts in regards to park n ride facilities and continue to shift stormwater management facilities out of forested wetlands.
2. **Tier II Watershed:** The project is located within the Otter Creek 1 Tier II Catchment. The following requirements and enhanced protection measures apply:
  - a. **Checklist Submittal:** Permittee shall update the Antidegradation Review Checklist for Enhanced Best Management Practices for Tier II Waters (Checklist) for submittal to the Administration prior to the start of construction. Once approved by the Administration, the Permittee, its employees, agents and contractors shall conduct authorized activities in a manner consistent with the agreed upon selection of Enhanced Best Management Practices for Tier II Waters.
  - b. **Avoidance and Minimization:** Permittee shall continue to avoid and minimize impacts to forest cover, riparian buffers, and make efforts to reduce impervious cover within the Tier II watershed to the extent practicable.
  - c. **Tier II Plantings:** Permittee shall replant up to 58.78 acres within the Otter Creek 1 Tier II Catchment, or as amended by the revised Checklist. The location of the plantings shall be onsite, or on sites approved by MDE. The Permittee shall continue to work with MDE and Harford County on the location of the plantings as noted previous correspondence for Phase I of the I-95 ETL Northbound Mitigation Project. The Permittee shall submit the final location of the Tier II plantings to the Department within 60 days of finalizing the location and planting plan.
  - d. **Notifications:** The Permittee must notify MDE Sediment and Stormwater Plan Review Division (SSPRD) staff of the Tier II status of the project and present for their review the Checklist when submitting plans for approval or modification.
  - e. **SSPRD Review:** To cover all portions of this project subject to Tier II review, if plan approval has already been granted, but Tier II review status notification and the Checklist was not provided to SSPRD, prior to receiving coverage under the Maryland General Permit for Stormwater Associated with Construction, SSPRD must be provided the opportunity to review the plans and Checklist for Tier II Review consistency.
  - f. **Checklist with Plan Submittal:** The Permittee must present the Checklist along with approved plans during all inspections to ensure compliance and consistency with future updates and modifications.
3. **Best Management Practices:** The provisions contained in the attached "Best Management Practices for Working in Wetlands and Waterways" listed on Page 7 are a part of this permit and shall be strictly enforced. The Permittee shall emphasize the sensitivity of the environmental resources along the transportation corridor and stress the importance of stringent adherence to all best management practices to its contractors during all pre-construction and progress meetings. These environmental resources include, but may not be limited to the sensitive species in the vicinity of the project site, including wetland resources surrounding the project, the Otter Creek 1 Tier II Catchment, and the presence of important anadromous fish species.
4. **Soil Borings Plans:** Soil borings plans shall be submitted to the Administration for review and approval prior to the start of the soil boring work.
5. **Wetland and Waterway Impacts – Plan Submittal:** Permittee shall, prior to commencement of construction within each approved phase for each project segment, submit to the Administration for review and approval relevant design plans, including Erosion and Sediment Control Plans and Stormwater Management Plans approved by the Maryland Department of the Environment. The plans shall include the limits of any nontidal wetlands, wetland buffers, and waters of the State (including the 100-year floodplain), limits of disturbance, "Best Management Practices," and a sequence of construction. Submittals to the Waterway Construction Division will be in accordance with COMAR 26.17.04 and include a design report. In addition, plans should include methods for protection of water quality, maintenance of stream flow, and dewatering. The plans, after having been approved by the Administration, shall be forwarded to the Permittee to be incorporated as an attachment to this Permit before construction activities begin for each segment. The Permittee shall perform all work in accordance with approved Soil Erosion and Sediment Control and Stormwater Management Plans.



6. **Submittal Review:** No work within a regulated resource area shall begin without written approval of the above plan submittals by the Administration Nontidal Wetlands and Waterway Construction Divisions (the "Divisions"). The Divisions will have up to 45 calendar days to review and respond to each submittal or response to comments. The Permittee shall develop a submittal schedule indicating anticipated dates for submission of plans and reports, and shall update the schedule as required. If the Administration is unable to return comments or approve within 14 days, the Administration will notify the Permittee and provide an estimate for when the comments or approval is expected. An avoidance and minimization narrative will also be required for each submittal review within resources.  
**Stream Relocation Design** – Where perennial or intermittent streams must be relocated, a design report shall be submitted and approved prior to initiation of relocation activities. The design report shall include hydrologic and hydraulic analysis of existing and proposed conditions, details of geomorphic approach to stream stabilization, proposed plantings, and maintenance of streamflow. Stream relocations shall utilize natural channel design techniques to the extent practical, and include provision for maximizing water quality and reduce thermal impacts.
7. **Hydrology and Hydraulics Submittal:** Hydrology and Hydraulics Analysis Reports shall be submitted to the Administration for approval prior to construction for work proposed in streams and 100-year floodplains; specifically for any bridge widening, culvert extension or replacement, noise wall installation, stream relocation/restoration and/or in-stream construction, and other relevant submittals within these resources. Hydrology and Hydraulics Analysis reports for each of these locations shall be submitted to the Administration for approval prior to construction of each location. Reevaluation of previously approved hydraulics may be required if determined necessary by the Administration, for any changes to upstream and downstream grading, pipe slopes, and elevations that may occur during the design process. Designs will be reviewed for compliance with all requirements of applicable state regulations.
8. **Bridge Extensions:** An extension of the Winters Run Bridge over Winters Run Road and Winters Run on I-95 SB totaling 52.23 feet in width will be constructed for a total out-to-out bridge width of 128.0 feet (existing southbound bridge out-to-out width of 75.77 feet). A maximum of two piers shall be built within Winters Run in-line with the existing piers. The existing Winters Run Bridge on I-95 NB will be widened over Winter's Run an additional 41.58 feet to the east (bridge out-to-out width will be 111.94 feet). The bridge consists of five simple support steel beam spans. It is supported on two abutments and four piers. The new piers for the widened section will be located in line with the existing piers. Riprap will be placed in front of Pier 1, Pier 2, and south abutment. Imbricated riprap will be placed in front of north abutment. Piers 2, 3, and 4 will have crash walls at the bottom matching crash walls on existing piers. Cofferdams will be used to facilitate the construction of Piers 3 and 4 and to maintain the stream flow of Winter's Run.
9. **Culvert Design:** Culverts conveying the stream base flow shall be depressed a minimum of one foot below the invert of the stream so that a natural substrate will accumulate in the culvert. Culverts smaller than 24 inches in diameter can be depressed less than one foot if specifically waived by the Administration. The Permittee shall design culverts to address specific geomorphic characteristics of the stream to avoid downstream scour and channel degradation, and to maintain ecological functions such as aquatic habitat, flood attenuation, sediment transport, and stream channel stability. Culvert length shall be minimized to the greatest extent practicable.
10. **Passage of Aquatic Life:** Provisions for passage of aquatic life will be a strong consideration during the review of waterways crossing design. Adequate sizing of structures in order to reduce velocities, promote natural substrate development, and allow adequate depression to accommodate future stream conditions shall be considered. Rip-rap within streams shall have a depressed "low flow" channel or other feature to allow passage. Where appropriate and practicable, structures greater than 150 linear feet will incorporate provisions to promote passage of those species known to occur in the waterway. Culverts greater than 150 linear feet in length will require an environmental study to demonstrate that adverse impacts are adequately mitigated unless waived by the Administration (COMAR 26.17.04.06). Where existing culverts are being extended, appropriate measures to promote / restore passage of aquatic life, including a "low flow" channel, may be required. The Administration shall approve the final plans for the structures prior to the start of their construction. If fish passage is not possible at a culvert crossing, additional mitigation may be required by the Administration.
11. **Preconstruction Meetings:** The Divisions shall be invited to attend a scheduled pre-construction meeting for each contract involving wetland / waters impacts. This meeting should include representatives of MDE's Compliance Program, the Permittee, contractor, and any subcontractors doing work in the area of regulated wetland and waters resources. The Divisions shall be notified of this meeting a minimum of 14 days prior to the date of the meeting. This meeting may be in conjunction with a partnering activity or other regulatory agency meeting.

12. **Associated Impacts:** Impacts to nontidal wetlands, nontidal wetland buffers, and nontidal waters (including the 100-year nontidal floodplain), both permanent and temporary, resulting from activities associated with this project, including utility relocation; disposal of materials; access; temporary storage facilities; or other related activities, are subject to all conditions of this Permit, including review and approval of submittals prior to initiation of work within regulated resources.
13. **Restoration of Temporary Impacts:** All streams and wetlands temporarily impacted by the work shall be restored to their pre-existing contours and elevations following construction. Wetlands shall be replanted with a mix of native (non-invasive) vegetation similar to the species composition that existed prior to construction; wetland hydrology shall be maintained; and the Permittee shall ensure wetland functions are the same as they were prior to the disturbance. Any pre-existing riparian vegetation that is grubbed within 30 feet of a stream shall be replanted with native (non-invasive) vegetation similar to the species composition that existed prior to construction. Permittee shall submit a final impact accounting report two growing seasons after restoration of all temporary impacts has been completed. Following the submittal of the final impact accounting report, a project inspection shall be conducted to verify the successful restoration of any temporarily impacted wetlands and streams. If restoration efforts are determined to have failed, further remediation, mitigation and / or monitoring will be required by the Administration.
14. **Temporary Impacts to Streams:** Proposed temporary stream crossings for construction access to be in place for less than one year shall be designed to pass the two-year storm event. All temporary crossings shall be designed to remain stable in case of overtopping. If construction constraints make these requirements impractical, the plan submittal shall include detailed information showing the provisions to prevent degradation to water quality during periods of overtopping, including provisions to secure all devices to prevent movement downstream. Proposed maintenance of streamflow for construction activities shall be submitted to the Administration for approval, and will require a design report indicating the flows to be handled, and provisions for when flows exceed capacity. In no case may a temporary stream crossing or maintenance of streamflow technique result in an increased risk of flooding to adjacent property owners without their written consent. Plan submittals for temporary stream impacts should include detailed plans for restoration, stabilization, and landscaping of the channel and floodplain area.
15. **Changes to approved impacts:** Should final design result in necessary impacts to any wetland or waterway greater than those approved in this permit, an approved Nontidal Wetlands and Waterway Permit Modification shall be required prior to initiation of work in these areas. At the Administration's discretion, minor increases may be initially approved by letter with subsequent Permit Modification reconciling impact totals. Should unplanned impacts occur (such as resulting from a failure of sediment and erosion control, or equipment exceeding the limits of disturbance), the affected area shall be restored to their pre-existing contours and elevations, and replanted with native vegetative species similar to the composition which existed prior to disturbance. The restored wetland areas shall be approved by the Divisions and additional mitigation may be required.
16. **Record Keeping:** The Permittee shall develop and maintain a tracking report to monitor impacts to regulated environmental resources. This environmental monitoring report shall include a detailed depiction of each wetland and waterway authorized to be impacted, any changes to impacts in final design, and a continuing and cumulative total of as-built impacts. Electronic files shall also be submitted to verify impact calculation totals. The report will also document compliance with Sediment and Erosion Control provisions, and present any compliance issues and their resolution. The tracking report shall be submitted to the Divisions quarterly, or at key project milestones, at the discretion of the Divisions.
17. **Stream Mitigation Site Monitoring:** Permittee shall monitor the stream restoration projects for a period of ten years following completion of construction of the mitigation project to verify that the site is meeting all performance standards. The Permittee must propose specific monitoring and performance standards based on the goals of the mitigation project for the Administration's approval. Permittee shall coordinate with the regulatory agencies concerning applicable remedial measures for any identified project failures and shall correct any project failures within one year of their identification. All proposed remedial measures must be reviewed and approved prior to implementation. In the event of discrepancy with the stream monitoring requirements found in this Condition, the standards and requirements set forth in the Phase II Approval Letter ("Approval Letter"), the Approval Letter shall govern. Permittee shall submit reports as specified in their monitoring plan and approved by the Administration.
18. **Wetland Mitigation Site Monitoring:** Permittee shall monitor the wetland mitigation sites for a period of ten years following completion of construction and planting of the project to verify that the site is meeting

all performance standards. The monitoring and performance standards shall follow the requirements in the April 20, 2018 document entitled "Performance Standards and Monitoring Protocol for Permittee-

19. **Responsible Nontidal Wetland Mitigation Sites.** Permittee shall coordinate with the regulatory agencies concerning applicable remedial measures for any identified project failures and shall correct any project failures within one year of their identification. All proposed remedial measures must be reviewed and approved prior to implementation. Permittee shall submit reports for years 2, 3, 5, 7, and 10 on the results of the monitoring efforts at the mitigation sites to the Administration by December 31 of each year.
20. **Long-term Protections for Mitigation Sites:** Long term protections including financial assurances, and conservation easements, deed restrictions, restrictive covenants, or deeding the land to an organization or public agency are required for each mitigation site. Documentation of the site protection mechanism must be provided for final mitigation site approval.

**GENERAL CONDITIONS**

1. **Validity:** Permit is valid only for use by Permittee. Permit may be transferred only with prior written approval of the Administration. In the event of transfer, transferee agrees to comply with all terms and conditions of Permit.
2. **Initiation of Work, Modifications and Extension of Term:** Permittee shall initiate authorized activities in waterways, including streams and the 100-year floodplain, within two (2) years of the Effective Date of this Permit or the Permit shall expire. [Annotated Code of Maryland, Environment Article 5-510(a)-(b) and Code of Maryland Regulations 26.17.04.12]. Permittee may submit written requests to the Administration for (a) extension of the period for initiation of work, (b) modification of Permit, including the Approved Plan, or, (c) not later than 45 days prior to Expiration Date, an extension of term. Requests for modification shall be in accordance with applicable regulations and shall state reasons for changes, and shall indicate the impacts on nontidal wetlands, streams, and the floodplain, as applicable. The Administration may grant a request at its sole discretion. (Annotated Code of Maryland, Environment Article 5-510(c), and Code of Maryland Regulations 26.17.04.12, and Annotated Code of Maryland, Environment Article 5-907 and Code of Maryland Regulations 26.23.02.07).
3. **Responsibility and Compliance:** Permittee is fully responsible for all work performed and activities authorized by this Permit shall be performed in compliance with this Permit and Approved Plan. Permittee agrees that a copy of the Permit and Approved Plan shall be kept at the construction site and provided to its employees, agents and contractors. A person (including Permittee, its employees, agents or contractors) who violates or fails to comply with the terms and conditions of this Permit, Approved Plan or an administrative order may be subject to penalties in accordance with §5-514 and §5-911, Department of the Environment Article, Annotated Code of Maryland (2007 Replacement Volume).
4. **Failure to Comply:** If Permittee, its employees, agents or contractors fail to comply with this Permit or Approved Plan, the Administration may, in its discretion, issue an administrative order requiring Permittee, its employees, agents and contractors to cease and desist any activities which violate this Permit, or the Administration may take any other enforcement action available to it by law, including filing civil or criminal charges.
5. **Suspension or Revocation:** Permit may be suspended or revoked by the Administration, after notice of opportunity for a hearing, if Permittee: (a) submits false or inaccurate information in Permit application or subsequently required submittals; (b) deviates from the Approved Plan, specifications, terms and conditions; (c) violates, or is about to violate terms and conditions of this Permit; (d) violates, or is about to violate, any regulation promulgated pursuant to Title 5, Department of the Environment Article, Annotated Code of Maryland as amended; (e) fails to allow authorized representatives of the Administration to enter the site of authorized activities at any reasonable time to conduct inspections and evaluations; (f) fails to comply with the requirements of an administrative action or order issued by the Administration; or (g) does not have vested rights under this Permit and new information, changes in site conditions, or amended regulatory requirements necessitate revocation or suspension.
6. **Other Approvals:** Permit does not authorize any injury to private property, any invasion of rights, or any infringement of federal, State or local laws or regulations, nor does it obviate the need to obtain required authorizations or approvals from other State, federal or local agencies as required by law.
7. **Site Access:** Permittee shall allow authorized representatives of the Administration access to the site of authorized activities during normal business hours to conduct inspections and evaluations necessary to assure compliance with this Authorization. Permittee shall provide necessary assistance to effectively and safely conduct such inspections and evaluations.
8. **Inspection Notification:** Permittee shall notify the Administration's Compliance Program at least five (5) days before starting authorized activities and five (5) days after completion. For Allegany, Garrett, and Washington Counties, Permittee shall call 301-689-1480. For Carroll, Frederick, Howard, Montgomery and Prince George's Counties, Permittee shall call 301-665-2850. For Baltimore City, Anne Arundel, Baltimore, Harford, Calvert, Charles, and St. Mary's Counties, Permittee shall call 410-537-3510. For Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico and Worcester Counties, Permittee shall call 410-901-4020. If Permit is for a project that is part of a mining site, please contact the Land and Materials Administration's Mining Program at 410-537-3557 at least five (5) days before starting authorized activities and five (5) days after completion.
9. **Sediment Control:** Permittee shall obtain approval from the Maryland Department of the Environment for a grading and sediment control plan specifying soil erosion control measures. The approved grading and sediment control plan shall be included in the Approved Plan, and shall be available at the construction site.

10. **Best Management Practices During Construction:** Permittee, its employees, agents and contractors shall conduct authorized activities in a manner consistent with the Best Management Practices specified by the Administration.
11. **Disposal of Excess:** Unless otherwise shown on the Approved Plan, all excess fill, spoil material, debris, and construction material shall be disposed of outside of nontidal wetlands, nontidal wetlands buffers, and the 100-year floodplain, and in a location and manner which does not adversely impact surface or subsurface water flow into or out of nontidal wetlands.
12. **Temporary Staging Areas:** Temporary construction trailers or structures, staging areas and stockpiles shall not be located within nontidal wetlands, nontidal wetlands buffers, or the 100-year floodplain unless specifically included on the Approved Plan.
13. **Temporary Stream Access Crossings:** Temporary stream access crossings shall not be constructed or utilized unless shown on the Approved Plan. If temporary stream access crossings are determined necessary prior to initiation of work or at any time during construction, Permittee, its employees, agents or contractors shall submit a written request to the Administration and secure the necessary permits or approvals for such crossings before installation of the crossings. Temporary stream access crossings shall be removed and the disturbance stabilized prior to completion of authorized activity or within one (1) year of installation.
14. **Discharge:** Runoff or accumulated water containing sediment or other suspended materials shall not be discharged into waters of the State unless treated by an approved sediment control device or structure.
15. **Instream Construction Prohibition:** To protect important aquatic species, motor driven construction equipment shall not be allowed within stream channels unless on authorized ford crossings. Activities within stream channels are prohibited as determined by the classification of the stream (COMAR 26.08.02.08): Carsins Run, Haha Branch (yellow perch presence) and James Run are Use I waterways; Winters Run and its tributaries (yellow perch presence) are Use I-P waterways; Little Gunpowder Falls (yellow perch presence), tributaries to Gunpowder Falls (yellow perch presence), Bynum Run (yellow perch presence), Jones Falls, and their tributaries are Use III waterways. No in-stream work is permitted during the period of March 1 to June 15 in Use I streams, inclusive, during any year; October 1 through April 30 in Use III and III-P streams, inclusive, during any year; February 15 through June 15 in Use I streams with the presence of yellow perch, inclusive, during any year; and October 1 through June 15 in Use III streams with the presence of yellow perch, inclusive any year.
16. **Instream Blasting:** Permittee shall obtain prior written approval from the Administration before blasting or using explosives in the stream channel.
17. **Minimum Disturbance:** Any disturbance of stream banks, channel bottom, wetlands, and wetlands buffer authorized by Permit or Approved Plan shall be the minimum necessary to conduct permitted activities. All disturbed areas shall be stabilized vegetatively no later than seven (7) days after construction is completed or in accordance with the approved grading or sediment and erosion control plan.
18. **Restoration of Construction Site:** Permittee shall restore the construction site upon completion of authorized activities. Undercutting, meandering or degradation of the stream banks or channel bottom, any deposition of sediment or other materials, and any alteration of wetland vegetation, soils, or hydrology, resulting directly or indirectly from construction or authorized activities, shall be corrected by Permittee as directed by the Administration.
19. **Mitigation:** Permittee shall mitigate for the loss of 133,779 square feet of forested nontidal wetland, 7,563 square feet of scrub-shrub nontidal wetland, 31,038 square feet of emergent nontidal wetland, 2,298 square feet of forested/emergent nontidal wetland, and 13,213 linear feet of streams by creating the equivalent of at least 267,558 square feet of forested nontidal wetland, 15,126 square feet of scrub-shrub nontidal wetland, 31,038 square feet of emergent nontidal wetland, 4,596 square feet of forested/emergent nontidal wetland, and restoring 13,213 linear feet of perennial and intermittent streams, in accordance with an approved Phase I Conceptual Mitigation Plan, as may be modified by a Phase II Mitigation Plan approved by the Department, pursuant to COMAR 26.23.04. Permanent wetland impacts from the stream restoration sites will be replaced at a 1:1 ratio at the respective restoration sites. The Jones Falls Eccleston Mitigation Site is located adjacent to Greenspring Valley Road and Park Heights Avenue in Baltimore County, and the Lilly Run Stream Restoration Site is located west of South Juniata Street in Harford County. The Carsins Run Stream Restoration Site is located adjacent to I-95 and the Ripken Stadium in Harford County. Carsins Run was permitted under the Section 200 Phase I ETL approval, and unused credits under Phase I will be used to satisfy the mitigation requirement in Phase II of Section 200. A Phase II Mitigation Plan shall be submitted to the Department no later than 90 days after the issuance of this Permit, unless an extension has been granted in writing by the Department. The Phase II Mitigation Plan must be approved by the

Department, through the Phase II Mitigation Plan Approval Letter and its associated exhibits (“Approval Letter”), prior to commencing the impacts authorized in this Permit. The Permittee shall construct the mitigation site per the approved Phase II Mitigation Plan in advance or concurrently with the activities authorized in this Permit. In the event of discrepancy with the mitigation requirements found in this Condition, the standards and requirements of the Approval Letter shall govern. The Permittee shall successfully meet project standards and other requirements, as specified in the Approval Letter and COMAR 26.23.04. The Permittee is required to notify the Department upon the start of grading and the completion of planting of the mitigation project. The Permittee shall submit monitoring reports for the mitigation project to the Department as specified in the Approval Letter. If the Permittee as stated in the Permit changes, the Permittee must notify the Department. If the mitigation obligation is to be transferred to another party, the Permittee must notify the Department.

#### **FEDERALLY MANDATED STATE AUTHORIZATIONS**

Water Quality Certification is granted for this project provided that all work is performed in accordance with the authorized project description and associated conditions. See individual WQC for 19-NT-0150/201960846. In addition, as applicable, this Permit constitutes that State’s concurrence with the Applicant’s certification that the activities authorized herein are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act of 1972, as amended. Activities in the following counties are not subject to the Maryland Coastal Zone Management requirement: Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington.

#### **U.S. ARMY CORPS OF ENGINEERS AUTHORIZATION**

The U.S. Army Corps of Engineers (Corps) has reviewed this activity and will issue an Individual Permit. Information regarding the terms and conditions of the Permit will be sent directly to the applicant by the Corps.

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

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

**STATE OF MARYLAND**  
**DEPARTMENT OF THE ENVIRONMENT**  
**WATER MANAGEMENT ADMINISTRATION**

**WATER QUALITY CERTIFICATION**  
**for**  
**NONTIDAL WETLANDS AND WATERWAYS**

**CERTIFICATION NUMBER:** 20-WQC-0009 / 201960846

**ISSUED TO:** Maryland Transportation Authority  
8019 Corporate Drive, Suite F  
Baltimore, MD 21236  
Attn: Mr. Brian Wolfe



**EFFECTIVE DATE:** February 21, 2020

**EXPIRATION DATE:** February 21, 2030

Description of Certified Project: Regulated activities are associated with Phase II of the I-95 Section 200 roadway improvements under MDTA Segment Nos. KH-3019, KH-3020, KH-3021, KH-3022, KH-3023, KH-3027, KH-3029, KH-3030, and KH-3031, and associated mitigation projects. The work includes extending a two-lane express toll lane (ETL) on northbound I-95 from north of Old Joppa Road to Bynum Run, just south of MD 543; safety and operational improvements along northbound I-95, relocation of the existing Park and Ride at the interchange of I-95 and MD 152, construction of a new Park and Ride on MD 24, construction of two noise walls adjacent to northbound I-95 and two noise walls adjacent to southbound I-95, and providing a new Intelligent Transportation System communication system to improve operations and incident management along both northbound and southbound I-95; wetland mitigation and /or stream restoration at the Lilly Run Stream Mitigation Site, Carsins Run Stream Mitigation Site, and the Jones Falls Eccleston Mitigation Site; and use of temporary erosion and sediment controls. This permit authorizes permanent impacts to 133,779 square feet of nontidal forested wetland, 7,563 square feet of nontidal scrub shrub wetland, 31,038 square feet of nontidal emergent wetland, 2,298 square feet of nontidal forested/emergent wetland, 491,125 square feet of the 25-foot nontidal wetland buffer, 28,555 linear feet (254750 square feet) of waterways, and 210,636 square feet of 100-year floodplain. The project will temporarily impact 80,924 square feet of nontidal forested wetland, 6,258 square feet of nontidal scrub shrub wetland, 84,413 square feet of nontidal emergent wetland, 235,373 square feet of the 25-foot nontidal wetland buffer, 107 linear feet (1,181 square feet) of waterways, and 1,179,654 square feet of 100-year floodplain. The project is located on I-95 from north of Old Joppa Road to Bynum Run, just south of MD 136 in Harford County, with proposed mitigation sites in Baltimore and Harford Counties.

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



The Certification Holder shall comply with the following conditions:

**GENERAL CONDITIONS**

1.  X  The proposed project shall be constructed in a manner which will not violate Maryland's Water Quality Standards as set forth in COMAR 26.08.02. The applicant is to notify the Administration's Compliance Program, at 410-537-3510, ten (10) days prior to commencing work.
2.  X  The proposed project shall be constructed in accordance with the approved final plan and its revisions.
3.  X  All fill and construction materials not used in the project shall be removed and disposed of in a manner which will prevent their entry into waters of this State.
4.  X  The Certification Holder shall notify the Water Management Administration, Nontidal Wetlands and Waterways Division, in writing, upon transferring property ownership or responsibility for compliance with these conditions to another person. The new owner/operator shall request, in writing, transfer of this water quality certification to his/her name.
5.  X  The Certification Holder shall allow the Water and Science Administration or its representative to inspect the project area at reasonable times and to inspect records regarding this project.

**SPECIAL CONDITIONS**

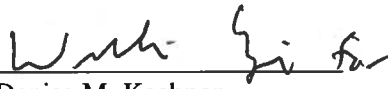
1. The conditions of Nontidal Wetlands and Waterways Permit No. 19-NT-0150 / 201960846 are incorporated, by reference, into this Water Quality Certification.
2.  X  The disturbance of the bottom of the water and sediment transport into adjacent State waters shall be minimized. The Permittee shall obtain and certify compliance with a grading and sediment control plan, which has been approved by the Maryland Department of the Environment. The approved plans shall be available at the project site during all phases of construction.
3.  X  Carsins Run, Haha Branch (yellow perch presence) and James Run are Use I waterways; Winters Run and its tributaries (yellow perch presence) are Use I-P waterways; Little Gunpowder Falls (yellow perch presence), tributaries to Gunpowder Falls (yellow perch presence), Bynum Run (yellow perch presence), Jones Falls, and their tributaries are Use III waterways. No in-stream work is permitted during the period of March 1 to June 15 in Use I streams, inclusive, during any year; October 1 through April 30 in Use III and III-P streams, inclusive, during any year; February 15 through June 15 in Use I streams with the presence of yellow perch, inclusive, during any year; and October 1 through June 15 in Use III streams with the presence of yellow perch, inclusive any year.
4.  X  **Tier II Watershed:** The project is located within the Otter Creek 1 Tier II Catchment. The following requirements and enhanced protection measures apply:
  - a. **Checklist Submittal:** Permittee shall update the Antidegradation Review Checklist for Enhanced Best Management Practices for Tier II Waters (Checklist) for submittal to the Department prior to the start of construction. Once approved by the Department, the Permittee, its employees, agents and contractors shall conduct authorized activities in a manner consistent with the agreed upon selection of Enhanced Best Management Practices for Tier II Waters.
  - b. **Avoidance and Minimization:** Permittee shall continue to avoid and minimize impacts to forest cover, riparian buffers, and make efforts to reduce impervious cover within the Tier II watershed to the extent practicable.

- c. **Tier II Plantings:** Permittee shall replant up to 58.78 acres within the Otter Creek 1 Tier II Catchment, or as amended by the revised Checklist. The location of the plantings shall be onsite, or on sites approved by MDE. The Permittee shall continue to work with MDE and Harford County on the location of the plantings as noted previous correspondence for Phase I of the I-95 ETL Northbound Mitigation Project. The Permittee shall submit the final location of the Tier II plantings to the Department within 60 days of finalizing the location and planting plan.
  - d. **Notifications:** The Permittee must notify MDE Sediment and Stormwater Plan Review Division (SSPRD) staff of the Tier II status of the project and present for their review the Checklist when submitting plans for approval or modification.
  - e. **SSPRD Review:** To cover all portions of this project subject to Tier II review, if plan approval has already been granted, but Tier II review status notification and the Checklist was not provided to SSPRD, prior to receiving coverage under the Maryland General Permit for Stormwater Associated with Construction, SSPRD must be provided the opportunity to review the plans and Checklist for Tier II Review consistency.
  - f. **Checklist with Plan Submittal:** The Permittee must present the Checklist along with approved plans during all inspections to ensure compliance and consistency with future updates and modifications.
5.  X  Stormwater runoff from impervious surfaces shall be controlled to prevent the washing of debris into the waterway. The natural vegetation shall be maintained and restored when disturbed or eroded. Stormwater drainage facilities shall be designed, implemented, operated, and maintained in accordance with the applicable approving authority.
6.  X  Stormwater Management Plan: The certification holder shall provide to the Administration a stormwater management plan including cross sections, and other applicable drawings which incorporates effective pollutant removal strategies in uplands to treat the required volume of runoff from impervious surfaces prior to the release of stormwater into state waters, tidal wetlands, or nontidal wetlands. There shall be no discharge of untreated stormwater to State waters and tidal and nontidal wetlands. The plan shall be provided by the Maryland Transportation Authority and shall be implemented by the Maryland Transportation Authority.
7.  X  Nontidal Wetland/Waters Mitigation Requirement: The Permittee is required to mitigate for the loss of 133,779 square feet of forested nontidal wetland, 7,563 square feet of scrub-shrub nontidal wetland, 31,038 square feet of emergent nontidal wetland, 2,298 square feet of forested/emergent nontidal wetland, and 13,213 linear feet of streams by creating the equivalent of at least 267,558 square feet of forested nontidal wetland, 15,126 square feet of scrub-shrub nontidal wetland, 31,038 square feet of emergent nontidal wetland, 4,596 square feet of forested/emergent nontidal wetland, and restoring 13,213 linear feet of perennial and intermittent streams, in accordance with an approved Phase I conceptual mitigation plan, as may be modified by a Phase II Mitigation Plan approved by the Mitigation and Technical Assistance Section ("Section") of the Department, pursuant to COMAR 26.23.04. Permanent wetland impacts from the stream restoration sites will be replaced at a 1:1 ratio at the respective restoration sites. The Jones Falls Eccleston Mitigation Site is located adjacent to Greenspring Valley Road and Park Heights Avenue in Baltimore County, and the Lilly Run Stream Restoration Site is located west of South Juniata Street in Harford County. The Carsins Run Stream Restoration Site is located adjacent to I-95 and the Ripken Stadium in Harford County. The Permittee shall successfully construct the mitigation sites and meet project standards and other requirements, as specified in the Approval Letter and COMAR 26.23.04, in advance or concurrently with the activities authorized in this Permit. In the event of discrepancy with the mitigation requirements found in this Condition, the standards and requirements set forth in Approval Letter shall govern. The Permittee is required to notify the Section upon the start of grading and the completion of planting of the mitigation project. The Permittee shall submit monitoring reports for the mitigation project to the Section as specified in the Approval Letter. If the Permittee as stated in the Permit, changes, the Permittee must notify the Section. If the mitigation obligation is to be transferred to another party, the Permittee must notify the Section.

8. X The certification holder shall provide a stream restoration plan for review and approval by the Water and Science Administration. The approved plan shall be implemented by the Maryland Transportation Authority.
9. X At least one culvert in every culverted stream crossing shall be depressed at least one foot below the existing stream bottom under the low flow condition. A low flow channel shall be provided through any riprap structures. The culvert shall be constructed and any riprap placed so as not to obstruct the movement of aquatic species.
10. X Stormwater Discharges: Stormwater discharges from ponds, stormwater management outfalls, and stormwater facilities shall have a velocity of no greater than four feet per second for the two year storm in order to prevent erosion in the receiving water or wetland.
11. X Future Stormwater Discharges: Future stormwater discharges to authorized pond(s) are prohibited unless the required volume of stormwater runoff from impervious surfaces is managed in uplands for effective pollutant removal.
12. \_\_\_\_\_ Stormwater Detention Ponds: Authorized stormwater detention or extended detention ponds shall have a maximum detention time of \_\_\_\_\_ for temporarily impounded stormwater volumes in excess of any permanent pool elevations or pond bottom.
13. \_\_\_\_\_ Integrated Pest Management: An Integrated Pest Management Plan for any proposed golf course shall be developed in accordance with the University of Maryland, Department of Entomology.
14. X Stormwater Drainage Facilities: Stormwater management and drainage facilities shall be maintained in accordance with the requirements of the applicable approving authority.
15. X Use of Stormwater Management Facility: Stormwater management facility may not be used until all stabilization is completed and all temporary sediment control devices have been removed.
16. \_\_\_\_\_ Maintenance of Stormwater Management Facility: If maintenance of a stormwater management facility is the responsibility of a homeowner's association, maintenance shall be conducted according to County specifications.

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

CERTIFICATION APPROVED

  
\_\_\_\_\_  
Denise M. Keehner  
Program Manager  
Wetlands and Waterways Program

cc: Steve Elinsky, United States Army Corps of Engineers  
MDE Compliance Program