



**Maryland**  
Department of  
the Environment

Wes Moore, Governor  
Aruna Miller, Lt. Governor

Serena McIlwain, Secretary  
Suzanne E. Dorsey, Deputy Secretary

May 19, 2023

Maryland Department of Transportation  
State Highway Administration  
707 N. Calvert Street  
Baltimore, MD 21202  
Attn. Mr. Jeffrey Folden

Via email: [JFolden1@mdot.maryland.gov](mailto:JFolden1@mdot.maryland.gov)

Re: Agency Interest Number: 168251  
Tracking Number: 202060649  
Water Quality Certification Number: 22-WQC-0023

Dear Mr. Folden:

After examination and consideration of the documents received and evidence in the file and record for the I-495 & I-270 Managed Lanes Project, the Water and Science Administration has determined that the project meets the statutory and regulatory criteria necessary for issuance of an individual Water Quality Certification (WQC).

The individual WQC for this project issued by the Maryland Department of the Environment (Department) is attached. Please read and review the WQC for this project to ensure that you understand the limits of the certified project and all of the general and special conditions. The attached WQC is a final agency decision. Any person aggrieved by the Department's decision to issue this WQC may appeal such a decision in accordance with COMAR 26.08.02.10F(4). A request for appeal shall be filed with the Department within 30 days of publication of the final decision and specify in writing the reason why the final decision should be reconsidered. A request for appeal shall be submitted to: Secretary of the Environment, Maryland Department of the Environment, 1800 Washington Boulevard, Baltimore, MD 21230. Any request for an appeal does not stay the effectiveness of this WQC.

You should not begin any work until you have obtained all necessary State, local, and federal authorizations. Please do not hesitate to contact me at [danielle.spendiff1@maryland.gov](mailto:danielle.spendiff1@maryland.gov) or 410-537-4023 with any questions.

Sincerely,

Danielle A. Spendiff, Chief  
Regulatory and Customer Service Division



# STATE OF MARYLAND



## DEPARTMENT OF THE ENVIRONMENT WATER AND SCIENCE ADMINISTRATION WATER QUALITY CERTIFICATION

22-WQC-0023

EFFECTIVE DATE: **May 5, 2023**

CERTIFICATION HOLDER: **Maryland Department of Transportation  
State Highway Administration  
707 N. Calvert Street  
Baltimore, MD 21202  
Attn: Mr. Jeffrey Folden**

PROJECT LOCATION: **I-495 from the George Washington Memorial  
Parkway to east of MD 187; I-270 from I-495 to north  
of I-370; and on the I-270 eastern spur from east of  
MD 187 to I-270 in Montgomery County, Maryland**

**UNDER AUTHORITY OF SECTION 401 OF THE FEDERAL WATER POLLUTION CONTROL ACT AND ITS AMENDMENTS AND IN ACCORDANCE WITH §9-313 THROUGH §9-323, INCLUSIVE, OF THE ENVIRONMENT ARTICLE, ANNOTATED CODE OF MARYLAND, THE WATER AND SCIENCE ADMINISTRATION (“ADMINISTRATION”) HAS DETERMINED THAT THE REGULATED ACTIVITY DESCRIBED IN THE REQUEST FOR CERTIFICATION OF THE I-495 AND I-270 MANAGED LANES STUDY (MLS) WILL NOT VIOLATE MARYLAND’S WATER QUALITY STANDARDS IF CONDUCTED IN ACCORDANCE WITH THE CONDITIONS OF THIS CERTIFICATION AND WITH ALL TERMS AND CONDITIONS OF THIS CERTIFICATION.**

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

### **PROJECT DESCRIPTION**

Regulated activities are associated with approximately 15 miles of roadway improvements along I-495 and I-270 including the addition of two high-occupancy toll (HOT) managed lanes in each direction along I-495, and the conversion of the existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and the addition of one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. The project also includes full replacement of the American Legion Bridge (ALB) with a new, wider bridge to accommodate the two HOT lanes in each direction with a shared use path to provide bicycle and pedestrian connection between Maryland and Virginia; roadway interchange additions and/or

modifications; removal of the existing collector-distributor lanes along I-270 from Montrose Road to I-370; construction of on-site and off-site stormwater management improvements and construction access; the addition of pedestrian and bicycle facilities; and improvements at the Washington Metropolitan Area Transit Authority's Shady Grove Metrorail Station and Westfield Montgomery Mall Transit Center. There are no improvements proposed at this time on I-495 east of the I-270 east spur to MD 5. Mitigation for this project is proposed at the CA-5 and RFP-2 Stream and Wetland Mitigation Sites, an approved Wetland and Stream Mitigation Bank, and on National Park Service (NPS) and Maryland-National Capital Parks and Planning Commission (M-NCPPC) lands for impacts to park properties. Activities associated with impacts to regulated resources for this project include: grading, excavating, and filling; installation of new pavement and resurfacing; removal of vegetation; utility relocations; replacement and extension of existing culverts and bridges; installation of new culverts; installation of rip-rap and slope armoring; installation of noise barriers, retaining walls, sidewalks, and trails; grading and filling associated with the CA-5, RFP-2, and M-NCPPC stream restoration sites; enhancement and creation of wetlands at the RFP-2 and NPS wetland mitigation sites; and use of temporary erosion and sediment controls during construction. This Certification recognizes permanent impacts to: 37,346 square feet of forested nontidal wetlands; 481 square feet of scrub-shrub nontidal wetlands; 115,107 square feet of emergent nontidal wetlands; 272,559 square feet of 25-foot nontidal wetland buffer; 27,272 linear feet of perennial stream; 10,709 linear feet of intermittent stream; and 1,054,683 square feet of disturbance in the 100-year floodplain. This approval also authorizes temporary impacts to: 9,666 square feet of forested nontidal wetland; 11,454 square feet of emergent nontidal wetland; 17,934 square feet of 25-foot nontidal wetland buffer; 1,116 linear feet of perennial stream; 1,184 linear feet of intermittent stream; and 323,257 square feet of disturbance in the 100-year floodplain. The proposed CA-5 and RFP-2 wetland and stream mitigation sites would temporarily impact 3,515 square feet of forested nontidal wetland, 4,889 square feet of emergent nontidal wetland, 27,430 square feet of 25-foot nontidal wetland buffer, 11,860 linear feet of perennial channel, 322 linear feet of intermittent channel, and 1,177,631 square feet of 100-year floodplain. The proposed NPS and M-NCPPC mitigation projects would temporarily impact 106,485 square feet of forested nontidal wetland, 33,870 square feet of 25-foot nontidal wetland buffer, 915 linear feet of perennial channel, 657 linear feet of intermittent channel, and 205,225 square feet of 100-year floodplain. The project begins just north of the George Washington Memorial Parkway in Virginia and continues into Maryland to east of MD 187 on I-495, and on I-270 from I-495 to north of I-370, and on the I-270 eastern spur from east of MD 187 to I-270 in Montgomery County. The activities described in this section shall be referred to as the Project.

The Certification Holder shall comply with the following conditions:

### **SPECIAL CONDITIONS**

**1. Instream Construction Prohibition:**

Protect aquatic species and their habitat.

- a. Motor driven vehicles and motor driven construction equipment shall not be allowed within stream channels except on authorized ford crossings.
- b. Activities within all stream channels are prohibited during certain times of the year as determined by the classification of the stream in COMAR 26.08.02.08, unless specifically approved by the Maryland Department of the Environment (Department), Water and Science Administration's Nontidal Wetlands and Waterways Protection Program (Program), including the following:
  - i. Rock Creek and its tributaries are Use I waterways; in-stream work may not be conducted from March 1 through June 15, inclusive, of any year; and
  - ii. Potomac River, Rock Run, Cabin John Creek, Booze Creek, Thomas Branch, Old Farm Creek, Watts Branch, Muddy Branch, Minnehaha Branch, Great Seneca Creek, and Cabin Branch and their tributaries are Use I-P waterways; in-stream work may not be conducted from March 1 through June 15, inclusive, of any year.

**2. Water Quality Monitoring Plan (WQM Plan):**

Ensure water quality standards are maintained during the duration of the Project.

- a. No activity that impacts regulated resources (regulated resources include wetlands, wetland buffers, waterways, and the nontidal 100-year floodplain) shall commence prior to the Program's approval of a WQM Plan. The WQM Plan shall be submitted at least 90 days prior to commencement of any work authorized under this Certification. The WQM Plan shall ensure consistency with the conditions of this Certification. Upon approval, the WQM Plan shall become part of these Certification conditions for the Project for the purposes of any federal license or permit.
- b. The WQM Plan shall contain the water quality criteria and benchmarks for which the Project shall be monitored and documented to ensure consistency with the requirements of the Clean Water Act, COMAR 26.08.02, and conditions in this Certification, including, at minimum, applicable total suspended solids/turbidity, temperature, dissolved oxygen, and pH criteria.
- c. The WQM Plan shall also contain monitoring methodology, monitoring locations, reporting schedule(s), quality assurance/quality control procedures, and corrective action plans.
- d. The WQM Plan can only be modified upon approval by the Program. Approved modifications shall become part of these Certification conditions for the Project for the purposes of any federal license or permit.

### 3. **Passage of Aquatic Life Plan (PAL Plan):**

Ensure passage of aquatic life is maintained or enhanced in the Project's final design and final built condition.

- a. No activity that impacts regulated resources shall commence prior to the Program's approval of a PAL Plan. The PAL Plan shall be submitted at least 90 days prior to commencement of any work authorized under this Certification. The PAL Plan shall ensure consistency with these Certification conditions. Upon approval, the PAL Plan becomes part of these Certification conditions for the Project for the purposes of any federal license or permit.
  - i. The PAL Plan shall identify the locations where passage of aquatic life is necessary and practicable. Construction plans shall be designed and constructed consistent with the requirements of COMAR 26.17.04 as approved by the Program in coordination with the Maryland Department of Natural Resources (DNR). Locations may include culvert replacements, culvert extensions, stream restorations, mitigation sites, and other similar locations.
  - ii. Construction plans for each change in stream channel or floodplain, including bridges and culverts, shall be submitted for review and must receive approval from the Program prior to the start of construction on each structure.
  - iii. The PAL Plan and construction plans shall include adequate sizing of structures to reduce velocities, promote natural substrate development, and allow adequate depression to accommodate future stream conditions as appropriate. Passage of anadromous fish shall also be addressed where appropriate.
  - iv. All riprap within streams shall have a depressed "low flow" channel or other feature to allow passage for aquatic life. Where appropriate and practicable, structures greater than 150 linear feet shall incorporate provisions to promote passage, including resting areas, baffles, and/or other techniques to promote passage of those species known to occur in the waterway. If riprap is needed for energy dissipation at either end of a stream culvert, it shall be buried below the invert of the stream to protect fish passage during low flows.
  - v. If passage of aquatic life is not practicable at a culvert crossing, the Program may require additional mitigation as a condition of approval.
  - vi. The PAL Plan can only be modified upon approval by the Program. Approved modifications shall become part of these Certification conditions for the Project for the purposes of any federal license or permit.

### 4. **Mussel Protection Plan (MP Plan):**

Protect rare, threatened, or endangered (RTE) mussel populations and their habitat.

- a. No activity within the Potomac River shall commence until the Program approves an MP Plan for the areas that are affected by the Project. The MP Plan shall be submitted at least 90 days prior to commencement of any work authorized under this Certification. The MP Plan shall ensure consistency with these Certification conditions. Upon approval, the MP Plan becomes part of these Certification conditions for the Project for the purposes of any federal license or permit.
- b. At minimum, the MP Plan shall address all areas of the Potomac River in the vicinity of Plummerville Island and the American Legion Bridge where RTE mussels may exist. The MP Plan shall include details on surveys, potential relocations, and impact minimizations for RTE mussels and their habitat.
- c. The Certification Holder shall coordinate with the Program and DNR as design and construction plans progress to minimize potential impacts. The Certification Holder shall provide documentation of coordination with DNR to the Program prior to the start of construction within the Potomac River for approval by the Program.
- d. The MP Plan can only be modified upon approval by the Program. Approved modifications shall become part of these Certification conditions for the Project for the purposes of any federal license or permit.

**5. Flood Action Plan (FA Plan):**

Ensure water quality standards are maintained during significant weather events.

- a. No activity that impacts regulated resources shall commence prior to the Program's approval of a FA Plan. The FA Plan shall be submitted at least 90 days prior to commencement of any work authorized under this Certification. The FA Plan shall ensure consistency with these Certification conditions. Upon approval, the FA Plan becomes part of these Certification conditions for the Project for the purposes of any federal license or permit.
- b. The FA Plan shall include the following:
  - i. Weather and the possibility of a rainfall event shall be monitored on a daily basis, seven days a week through the National Oceanic and Atmospheric Administration. When a significant weather event is forecast, all equipment and construction materials shall be staged outside of all mapped 100-year floodplains. A significant weather event is a greater than 50 percent chance of 1 inch or more rainfall forecast during a 24-hour period within the watershed.
  - ii. Specifically address monitoring of the Potomac River's flood stages and work within the Potomac River's 100-year floodplain.
  - iii. No equipment, construction materials, loose tools, or hazardous materials, including fuel for equipment and pumps, shall be stored within the 100-year floodplain.
- c. Details for each 100-year floodplain shall be submitted for work within each 100-year floodplain prior to construction at each location for approval by the Program.
- d. The FA Plan can only be modified upon approval by the Program. Approved modifications shall become part of these Certification conditions for the Project for the purposes of any federal license or permit.

**6. Concrete Grouting Plan (CG Plan):**

Ensure construction does not cause or contribute to an exceedance of State water quality standards, or exceed the water quality standards in COMAR 26.08.02, including pH, or other water quality requirements of state law or regulation to the maximum extent practicable.

- a. No activity that impacts regulated resources shall commence prior to the Program's approval of a CG Plan. The CG Plan shall be submitted at least 90 days prior to commencement of any work authorized under this Certification. The CG Plan shall ensure consistency with these Certification conditions. Upon approval, the CG Plan becomes part of these Certification conditions for the Project for the purposes of any federal license or permit.
- b. The CG Plan shall include a protocol to manage the curing process in the stream where concrete lining, grouting, or other instream placement of concrete will occur.

- c. The CG Plan can only be modified upon approval by the Program. Approved modifications shall become part of these Certification conditions for the Project for the purposes of any federal license or permit.

**7. Construction Plan Submittals**

Submit the plans below and obtain the Program's concurrence with each plan before beginning construction.

- a. **Stormwater Management Plan Submittal:** Submit concept and final Stormwater Management Plans to the Program for review and obtain the Program's concurrence on the concept and final Stormwater Management Plans prior to beginning any work in regulated resources including wetlands, wetland buffers, nontidal waterways, and nontidal 100-year floodplains. The final stamped plans, and any proposed modifications to those plans, shall be submitted to the Program for concurrence. Upon approval by the Department, these plans shall become part of these Certification conditions for the Project for the purposes of any federal license or permit.
  - i. No stormwater management structures shall be placed in any nontidal wetland, nontidal wetland buffer, nontidal waterway, or 100-year nontidal floodplain unless specifically approved by the Program.
  - ii. Stormwater shall be controlled to prevent discharge of sediments, trash, or debris into nontidal wetlands or nontidal waterways, unless specifically approved by the Program.
- b. **Construction Plan Submittals:** Submit detailed construction plans and obtain Program concurrence prior to disturbing any regulated resource, including wetlands, wetland buffers, waterways, or the nontidal 100-year floodplain.
  - i. Erosion and sediment control plans, including methods for protection of water quality, maintenance of stream flow, and dewatering, shall be submitted to the Program for concurrence prior to initiation of work in each phase. Work on each phase shall not begin until the Program has concurred with the applicable plans for that phase.
  - ii. Any proposed change(s) to approved erosion and sediment control plans shall be forwarded to the Program for concurrence. Work shall not begin that reflects the proposed changes until the Department approves the proposed change(s).
- c. **Culvert Plan Submittals:**
  - i. Submit culvert construction plans for concurrence by the Program prior to any riparian tree clearing at each culvert location.
  - ii. Culvert construction plans shall include hydrologic and hydraulic analysis and construction plans, including stabilization and restoration, for concurrence from the Program consistent with requirements outlined in COMAR 26.17.04.
  - iii. Work shall not begin in any location subject to the culvert construction plans until the Program approves the culvert construction plans.
- d. **Submittal Review:** Develop a submittal schedule indicating anticipated dates for submission of plans and reports, and shall update the schedule as required. No work that affects any regulated resource shall begin without written concurrence from the Program for each plan described in this section.

**8. Stormwater Best Management Practices (BMPs) in Use III and IV Watersheds:**

Ensure stormwater BMPs/facilities in Use III and IV waters meet designated use temperature criteria.

- a. Design stormwater BMPs/facilities in Use III and IV watersheds as designated in the Maryland Stormwater Design Manual, and COMAR 26.08.02.

**9. Plummer's Island Channel:**

Ensure untreated stormwater runoff does not enter the Plummer's Island Channel.

- a. The Certification Holder shall not discharge untreated stormwater runoff from the American Legion Bridge (Bridge) into the Plummer's Island Channel or its tributary (located on attached Impact Plate 2 - labeled 22MM and 22QQ). Stormwater from the Bridge shall be directed to the Potomac River mainstem or otherwise managed or with concurrence from the Program.

**10. Signage and Portage Instructions:**

Protect the designated and existing uses of the Potomac River during construction.

- a. Display signage and portage instructions to protect the swimming, fishing, and boating public within the Potomac River during construction.

**11. Independent Environmental Monitors (IEMs):**

Assess and report compliance with all conditions of this Certification.

- a. Retain qualified IEMs who are approved by the Program prior to the start of construction within regulated resources. The IEMs shall be independent from the Certification Holder and from all design consultants and construction contractors working on the Project. The Certification Holder shall retain IEMs to assess compliance with all conditions of this Certification. The IEMs shall be full-time unless otherwise approved by the Program. Additional approved IEMs may be required to cover the Project if necessary as determined by the Program. The IEMs shall:
  - i. Review design submittals and construction activities for compliance with all conditions of this Certification;
  - ii. Report findings directly and concurrently to the Program and the Army Corps of Engineers (Corps), notifying them and the Certification Holder immediately of any reported or observed violations or non-compliance issues within the terms or conditions of this Certification, or approved plans and specifications;
  - iii. Assist with identification of ongoing opportunities for further protection of water quality.
- b. The IEMs' schedule shall be based on project needs and overall schedule. The IEMs' schedule must be approved by the Program before the schedule is implemented.
- c. Prior to the start of construction in regulated resources, the Certification Holder shall provide an IEM Manual to the Program, and the IEM Manual must receive approval from the Program. Upon approval, the IEM Manual shall become part of these Certification conditions for the Project for the purposes of any federal license or permit.

**12. Temporary Wetland and Waterway Disturbance:**

Minimize impacts to wetlands and their buffers and waterways, including the nontidal 100-year floodplain, to the maximum extent practicable.

- a. Restore any temporarily disturbed wetlands, wetland buffers, waterways, and nontidal 100-year floodplains to pre-construction conditions or better, as approved by the Program, prior to completion of the Project.

**13. Mitigation:**

Mitigate the loss of nontidal wetlands and streams.

- a. Pursuant to COMAR 26.23.04, create and enhance wetlands and restore streams in accordance with a Phase II conceptual mitigation plan that is approved by the Mitigation and Technical Assistance Section ("Section") of the Program. Upon approval, the Phase II conceptual mitigation plan, and subsequent Phase II approval letter from the Program, become part of these Certification conditions for the Project for the purposes of any federal license or permit.

**GENERAL CONDITIONS**

1. Meet all water quality-related performance standards and conditions required by the Department in any State-issued authorization for activities in Waters of the United States to ensure that any discharges will comply with water quality standards in COMAR 26.08.02 and other water quality requirements of State law or regulation.
2. Avoid placing structures or conducting activities that entangle or interfere with the movement of aquatic life, fish, or other wildlife.
3. Prevent the spread of non-native species that may cause adverse effects on the aquatic ecosystem.
4. Implement and comply with all final approved plans, permits, and modifications that are approved by the State and/or the Corps of Engineers, as applicable. The approved plans, permits and

modifications by MDE and/or the Corps of Engineers are incorporated by reference into this Certification.

5. Meet the requirements in Annotated Code of Maryland, Environment Article, Title 4 and COMAR 26.17.01, including obtaining and complying with an approved erosion and sediment control plan, and following the stabilization requirements set forth in COMAR 26.17.01.07 and the “2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control (2011 Standards)” as amended.
6. Minimize any disturbance to the bottom of waterways and prevent sediment transport into adjacent State waters.
7. Remove and dispose of all unused fill and construction materials in a manner which will prevent their entry into waters of this State.
8. Adhere to the construction time of year restrictions, unless waived or amended by the Program, as identified in a State authorization.
9. Obtain any other authorizations or approvals that the Department requires, including General Permits, and comply with all conditions of such authorizations or approvals.
10. Obtain any required authorizations or approvals from other State, federal, or local agencies.
11. Refrain from causing any injury to private property, invasion of rights, or infringement of federal, State, or local laws or regulations.
12. Inspection and entry. The Certification Holder shall allow the Department, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
  - a. Enter upon the Certification Holder's premises where a certified activity or operation is located or conducted, or where records must be kept under the conditions of this Certification;
  - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Certification;
  - c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Certification; and
  - d. Sample or monitor at reasonable times, for the purposes of assuring compliance or as otherwise authorized by Program, any substances or parameters at any location.
  - e. Allow the Department's authorized representatives access to the Project during normal business hours to conduct inspections and evaluations of operations and records to verify compliance with this Certification.
13. For projects that clear, grade, develop, or redevelop any land, implement a Department-approved plan that provides stormwater management to control or manage runoff from such activities during and after construction, except as provided within the applicable *Maryland Stormwater Management and Erosion & Sediment control Guidelines for State and Federal Projects*.

### **STATEMENTS OF NECESSITY AND CITATIONS**

1. Statement of Necessity for Special Conditions 1-13 and General Conditions 1-13: These conditions are necessary to ensure that water quality standards are met and designated uses are maintained.

Citations: Federal and State laws which authorize these conditions include: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; COMAR 26.08; COMAR 26.08.02.02; 26.08.02.03; COMAR 26.17.04; COMAR 26.23; and COMAR 26.23.02.06.



2. Statement of Necessity for Special Conditions 2, 6, 8, and 11: Activities which result or may result in a discharge to regulated waters, including replacement of wetland/water resources as an offset/mitigation, may require monitoring to ensure that water quality standards are met and designated uses are maintained, and to determine if remedial measures are needed to restore compliance with water quality standards if they are not met as a result of the discharge. The conditions are also necessary to ensure that fill material does not increase turbidity or other parameters in violation of narrative or numeric water quality standards or interfere with designated uses, and to ensure that offsets to regulated waters are implemented successfully.

Citations: State laws which authorize these conditions include MD. Env. Code Ann. §9-303.1, §9-313 - 9-316, §9-319 - 9-325, §9-327 and §9-328; MD. Env. Code Ann. §5-901 - 5-911; COMAR 26.08.01.02; COMAR 26.08.02.01; COMAR 26.08.02.02; COMAR 26.08.02.03; COMAR 26.08.02.09; COMAR 26.23.

3. Statement of Necessity for Special Conditions 1-5, 7, 8, 10-12, 13 and General Condition 12: These conditions require precise actions to ensure compliance with water quality standards. Site inspection authority provides a means to verify that limits, methods, and other requirements are met to ensure that water quality standards are met and designated uses are maintained. These conditions ensure that regulated activities are conducted and projects are completed according to terms of this Certification, while allowing for review of in-field modifications to ensure that water quality standards are met.

Citations: Federal and State laws which authorize these conditions include: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.02; COMAR 26.08.02.03; COMAR 26.08.02.03-3; COMAR 26.23.02.06; COMAR 26.23; and COMAR 26.17.04.

4. Statement of Necessity for Special Conditions 2, 5, 7, and 11: Unauthorized discharges may enter regulated waters as result of activity or structural failure. A plan to address and monitor for unauthorized discharges will prevent or address further violations of water quality standards or failure of water to meet designated uses, including uses of growth and propagation of fish, other aquatic life, wildlife, as well as general water quality criteria that waters would not be polluted by substances in amounts sufficient to be unsightly or create a nuisance.

Citations: State laws which authorize these conditions include MD. Env. Code Ann. §9-303.1, §9-313 - 9-316, §9-319 - 9-325, §9-327 and §9-328; COMAR 26.08.02.01; COMAR 26.08.02.02; COMAR 26.08.02.03.

5. Statement of Necessity for Special Conditions 2, 3, 7, and 11-13: Nontidal wetlands, buffers, and waterways provide essential habitat, water quality, food, and movement corridors for wildlife, and support water contact recreation, protection of nontidal aquatic life, and protection of waters. Adaptive plans allow for adjustments to ensure that habitat and the associated designated uses are maintained.

Citations: State laws which authorize these conditions include MD. Env. Code Ann. §9-303.1, §9-313 - 9-316, §9-319 - 9-325, §9-327 and §9-328; MD. Env. Code Ann. §5-901 - 5-911; MD. Env. Code Ann. §1-404 and §5-501 - 5-514; COMAR 26.08.02.02; COMAR 26.08.02.03; COMAR 26.08.02.03-3;

COMAR 26.17.04; and COMAR 26.23.

6. Statement of Necessity for Special Condition 1 and General Condition 8: Restrictions on instream construction protect designated uses for propagation and growth of fish, other aquatic life, and wildlife.

Citations: Federal and State laws which authorize these conditions include: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.03-3; and COMAR 26.23.02.06.

7. Statement of Necessity for Special Conditions 3, 7 and General Condition 2: Movement of aquatic life and passage of flows is essential for the growth and propagation of aquatic life, fish, and other wildlife to meet these designated uses.

Citations: Federal and State laws which authorize these conditions include: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10; COMAR 26.08.02.02; 26.08.02.03; COMAR 26.17.01; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.24; and COMAR 26.17.04.

8. Statement of Necessity for General Condition 3: Nuisance or non-native species may spread and disrupt and dislodge native species, including fish or other aquatic life, from their habitat, leading to declines in distribution, density, growth, or propagation.

Citations: State laws which authorize these conditions include MD. Env. Code Ann. §5-901 - 5-911; COMAR 26.23.02.06; and COMAR 26.23.

9. Statement of Necessity for Special Conditions 5-7, 9, 11 and General Conditions 4-7 and 13: Fill or construction material within or adjacent to regulated resources or other earth disturbance may result in discharges that impact water quality, clarity, growth and propagation of fish, other aquatic life, wildlife, potable water, or other designated uses; and cause or contribute to a failure to meet general water quality criteria that waters not be polluted by substances in amounts sufficient to be harmful, unsightly, or create a nuisance.

Citations: Federal and State laws which authorize these conditions include: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.02; COMAR 26.08.02.03; COMAR 26.08.02.10; COMAR 26.17.01; COMAR 26.23.02.06; COMAR 26.23; and COMAR 26.17.04.

10. Statement of Necessity for Special Conditions 5-7, 9, 11 and General Conditions 4-7 and 13: Material within or adjacent to regulated resources may result in discharges that harm water quality or designated uses.

Citations: Federal and State laws which authorize these conditions include: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md.

Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.02; COMAR 26.08.02.03; COMAR 26.23.02.06; COMAR 26.17.04; and COMAR 26.23.

11. Statement of Necessity for Special Condition 1 and General Condition 8: The time of year restrictions are necessary to maintain the designated uses.

Citations: State laws which authorize these conditions include MD. Env. Code Ann. §9-313 - 9-316, §9-319 - 9-320, §9-325, §9-327 and §9-328; COMAR 26.08; COMAR 26.08.02.02; and COMAR 26.08.02.03-3.

12. Statement of Necessity for General Conditions 9-11: These conditions are necessary to clarify the scope of this Certification to ensure compliance with water quality regulations without limiting restrictions through other requirements that also affect water quality.

Citations: Federal and State laws which authorize these conditions include: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08, COMAR 26.08.02.10; COMAR 26.23.02.06; COMAR 26.17.04; and COMAR 26.23.

13. Statement of Necessity for Special Condition 13: Mitigation is required to ensure that waters continue to meet designated uses, as losses of wetlands or waterways result in water quality degradation. Wetlands provide essential habitat, water quality, food, and movement corridors for wildlife. Losses may result in discharges which interfere with designated uses, including growth and propagation of fish, other aquatic life, and wildlife through loss of stream channel habitat and wetlands.

Citations: Federal and state laws that authorize this condition include: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.01; COMAR 26.08.02.02; COMAR 26.08.02.07; COMAR 26.08.02.10; COMAR 26.17.04; COMAR 26.23; COMAR 26.23.02.06; COMAR 26.24.

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

## CERTIFICATION APPROVED

D. Lee Currey  
D. Lee Currey (May 5, 2023 11:56 EDT)

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D. Lee Currey, Director  
Water and Science Administration

WQC No: 22-WQC-0023

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Tracking Number:

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Agency Interest Number: 168251

Effective Date: May 5, 2023

Attachments: Impact Plates

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