



MARYLAND TRANSIT ADMINISTRATION

MARYLAND DEPARTMENT OF TRANSPORTATION

Martin O'Malley, Governor • Anthony G. Brown, Lt. Governor
James T. Smith, Jr., Secretary • Robert L. Smith, Administrator

TO: All Plan holders

FROM: Hattie M. Crosby, Construction Chief
Maryland Transit Administration

SUBJECT: **ADDENDUM NO. 8**
Contract No.: T-0213-2840
Repairs to Freight Rail Structures Statewide

DATE: April 11, 2014

Enclosed and effective this date is Addendum No.8 to the subject Contract. This addendum provides **Replacement**: page 4 of 12 and MSDE Permits for the Project.

The Bidder shall acknowledge receipt of this Addendum by completing and returning this form with the bid package.

All other terms and conditions not listed herein remain unchanged.

Sincerely,

Hattie M. Crosby, Procurement Officer
Construction/Installation Section
Procurement Division

Acknowledgement of receipt of ADDENDUM #8 to Solicitation #T 10213-2840

Vendor Name: _____

Authorized Representative's Signature

Date

<u>ADDENDUM NO.:</u>	<u>8</u>
<u>DATE:</u>	<u>4/15/14</u>
<u>CONTRACT NO.:</u>	<u>T-0213-2840</u>

The following additions, deletions, and modifications are hereby made a part of the Contract Documents of Repairs to Freight Rail Line Structures Statewide, Contract No.: T-0213-2840

<u>Addendum Item No. 8</u>	<u>Page</u>	<u>Modification</u>
I. <u>CONTRACT SPECIFICATIONS</u>		
1	Bid Form (UPS) BF-4	Reinserted Item 010 for Remove Bridge
II. <u>PERMITS PACKAGE</u>		
1	----	MDE Letter: Exemptions Notice for SWM and E&SC Plan Review
2A	----	MDE LOA for Line 148 – Culvert 28.60
2B	----	MDE LOA for Line 149 – Culvert 07.73
2C	----	MDE LOA for Line 149 – Culvert 08.27
2D	----	MDE LOA for Line 149 – Culvert 10.43
2E	----	MDE LOA for Line 198-199 – Bridge 65.35
2F	----	MDE LOA for Line 198-199 – Bridge 65.40
2G	----	MDE LOA for Line 150 – Bridge 06.75
3A	----	DNR Letter: No RTE Notice #1
3B	----	DNR Letter: No RTE Notice #1
3C	----	DNR Letter: No RTE Notice #1
4	----	Email: RE MHT Ruling – No Effects on Historic Structures

Item	Section	Description	Estimate of Quantity	Unit	Unit Price	Total Price
001	01130	Mobilization	1	LS	\$116,483	\$116,483
002	01210	Miscellaneous Work Allowance	1	ALL	\$100,000	\$100,000
003	01450	Quality Assurance and Quality Control	1	ALL	\$45,000	\$45,000
004	01524	Engineers Field Office	1	ALL	\$56,000	\$56,000
005	01500	Maintenance and Control of Traffic	1	LS		
006	01500	Temporary Maintenance of Stream Flow	1	LS		
007	01550	Temporary Traffic Signs High Performance Wide Angle Retroreflective Sheeting	520	SF		
008	01550	Type III Barricade For Maintenance of Traffic	6	EA		
009	01550	Portable Variable Message Sign	5	UD		
010	02220	Remove Bridge	1	LS		



MARYLAND DEPARTMENT OF THE ENVIRONMENT
1800 Washington Boulevard • Baltimore MD 21230
410-537-3000 • 1-800-633-6101

Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Secretary

Anthony G. Brown
Lieutenant Governor

Received
Maryland Transit Administration

July 18, 2013

JUL 26 2013

Michael P. Hart, PE
Maryland Transit Administration
6 St. Paul Street, Suite 602
Baltimore, MD 21202

Office of Engineering
Track & Structural Preservation Engineering

Re: MDE No. 14-EX-0001
No. T-0213-2840
Repairs to Freight Rail Line Structures Statewide

Dear Mr. Hart:

The Water Management Administration (WMA) has reviewed the submittal received July 12, 2013 for the above referenced project in different Counties statewide. The review was in accordance with Sections 4-106 and 4-205 of the Department of the Environment Article, Annotated Code of Maryland with regard to Sediment Control and Stormwater Management.

Based upon the information provided, it has been determined that the above referenced project does not require formal approval by the WMA Sediment and Stormwater Plan Review Division.

Please be advised that, pursuant to COMAR 26.09.01.02, Maryland Transit Administration is not relieved of the responsibility to ensure that any measures needed for adequate erosion and sediment control are implemented during all phases of the work. In the event that earth disturbance exceeds 5000 sf or 100 cy, this EXEMPTION shall become null and void and Maryland Transit Administration shall submit an erosion, sediment control and stormwater plan to WMA for review and approval.

It is the responsibility of the Applicant to ensure that a copy of this EXEMPTION shall be available at the construction site during the construction period.

Sincerely,

James K. Tracy
For James K. Tracy, P.E., Chief
Sediment and Stormwater Plan Review Division
Water Management Administration

JKT/ OO

cc: Compliance and Inspection Program
Approval File

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION
LETTER OF AUTHORIZATION

AUTHORIZATION NUMBER: 13-NT-2089/201361451
EFFECTIVE DATE: October 8, 2013
EXPIRATION DATE: October 8, 2016
AUTHORIZED PERSON: Maryland Transit Administration
6 Saint Paul St
Baltimore, Maryland 21202-1614
Attn: Wanc-Jang Lin



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 OF AUTHORIZATIONS, Maryland Transit Administration (AUTHORIZED PERSON), IS HEREBY AUTHORIZED BY THE WATER MANAGEMENT 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 October 8, 2013 ("APPROVED PLAN") AND PREPARED BY Wallace Montgomery AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

To conduct maintenance and repair to existing MTA culvert structure 28.62 on the Massey/Centreville Freight Rail Line 148, located approximately 800 feet northeast of the Maryland Route 301/Hayden Road Interchange in Price, Queen Anne's County, Maryland. This authorized activity requiring the removal of vegetation and the installation of a 32inch HDPE pipe liner, shall temporarily disturb 12 square feet of emergent nontidal wetlands and 93 square feet of regulated nontidal wetlands buffer.

MD Grid Coordinates: 157292 x 488691

Amanda Sigillito
Division Chief
Nontidal Wetlands Division

Received
Maryland Transit Administration

OCT 11 2013

Office of Engineering
Food Guideway Engineering

Attachments: Conditions of Authorization

cc: Harry Hunsicker – MDE Compliance w/file
Marla Duley – Wallace Montgomery, Inc.

201361451a.laf

THE FOLLOWING CONDITIONS OF AUTHORIZATION APPLY TO ALL ACTIVITIES AUTHORIZED BY
AUTHORIZATION NUMBER 13-NT-2089/201361451

Page 2 of 3

1. **Validity:** Authorization is valid only for use by Authorized Person. Authorization 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 Authorization.
2. **Initiation of Work, Modifications and Extension of Term:** Authorized Person shall initiate authorized activities with two (2) years of the Effective Date of this Authorization or the Authorization shall expire. Authorized Person may submit written requests to the Administration for (a) extension of the period for initiation of work, (b) modification of Authorization, including the Approved Plan, or, (c) not later than 45 days prior to Expiration Date, an extension of the 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.
3. **Responsibility and Compliance:** Authorized Person is fully responsible for all work performed and activities authorized by this Authorization shall be performed in compliance with this Authorization and Approved Plan. Authorized Person agrees that a copy of the Authorization and Approved Plan shall be kept at the construction site and provided to its employees, agents and contractors. A person (including Authorized Person, its employees, agents or contractors) who violates or fails to comply with the terms and conditions of this Authorization, 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 Authorized Person, its employees, agents or contractors fail to comply with this Authorization or Approved Plan, the Administration may, in its discretion, issue an administrative order requiring Authorized Person, its employees, agents and contractors to cease and desist any activities which violate this Authorization, or the Administration may take any other enforcement action available to it by law, including filing civil or criminal charges.
5. **Suspension or Revocation:** Authorization may be suspended or revoked by the Administration, after notice of opportunity for a hearing, if Authorized Person: (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 Authorization; (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 Authorization and new information, changes in site conditions, or amended regulatory requirements necessitate revocation or suspension.
6. **Other Approvals:** Authorization 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:** Authorized Person 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. Authorized Person shall provide necessary assistance to effectively and safely conduct such inspections and evaluations.
8. **Inspection Notification:** Authorized Person 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, Authorized Person shall call 301-689-1480. For Carroll, Frederick, Howard, Montgomery and Prince George's Counties, Authorized Person shall call 301-665-2850. For Baltimore City, Anne Arundel, Baltimore, Calvert, Charles, and St. Mary's Counties, Authorized Person shall call 410-537-3510. For Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, Somerset, Talbot, Wicomico and Worcester Counties, Authorized Person shall call 410-901-4020. If Authorization is for a project that is part of a mining site, please contact the Land Management 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:** Authorized Person shall obtain approval from the Queen Anne's Soil Conservation District 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. **Federally Mandated State Authorizations:**
 - Water Quality Certification:** Water Quality Certification is granted for this project provided that all work is performed in accordance with the authorized project description and associated conditions.

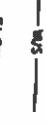
- X Coastal Zone Consistency:** This Authorization constitutes official notification that authorized activities are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the Federal Coastal Zone Management Act of 1972, as amended. Activities within the following counties are not subject to this requirement: Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington.
11. **Best Management Practices During Construction:** Authorized Person, its employees, agents and contractors shall conduct authorized activities in a manner consistent with the Best Management Practices specified by the Administration.
 12. **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.
 13. **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.
 14. **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, Authorized Person, 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.
 15. **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.
 16. **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): Granny Finley Branch is a Use I waterway; in-stream work may not be conducted from March 1 through June 15 inclusive, of any year.
 17. **Instream Blasting:** Authorized Person shall obtain prior written approval from the Administration before blasting or using explosives in the stream channel.
 18. **Minimum Disturbance:** Any disturbance of stream banks, channel bottom, wetlands, and wetlands buffer authorized by this Authorization 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.
 19. **Restoration of Construction Site:** Authorized Person 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 Authorized Person as directed by the Administration.
 20. **Mitigation:** Authorized Person shall mitigate for the loss of <describe impacts> by creating the equivalent of at least <describe mitigation>, 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. A Phase II Mitigation Plan shall be submitted to the Section no later than 90 days after the issuance of this Letter of Authorization, unless an extension has been granted in writing by the Section. The Phase II Mitigation Plan must be approved by the Section, through the Phase II Mitigation Plan Approval Letter and its associated exhibits ("Approval Letter"), prior to commencing the impacts authorized in this Authorization. The Authorized Person shall successfully construct the mitigation site 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 Authorization. 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 Authorized Person is required to notify the Section upon the start of grading and the completion of planting of the mitigation project. The Authorized Person shall submit monitoring reports for the mitigation project to the Section as specified in the Approval Letter. If the Authorized Person as stated in the Authorization, changes, the Authorized Person must notify the Section. If the mitigation obligation is to be transferred to another party, the Authorized Person must notify the Section.

U.S. ARMY CORPS OF ENGINEERS AUTHORIZATION

The U.S. Army Corps of Engineers has reviewed this activity and has granted authorization under the Maryland State Programmatic General Permit (MDSPGP-4), as a Category A activity. The terms and conditions of the MDSPGP-4, as outlined in the enclosed attachment, should be followed when performing the authorized work.

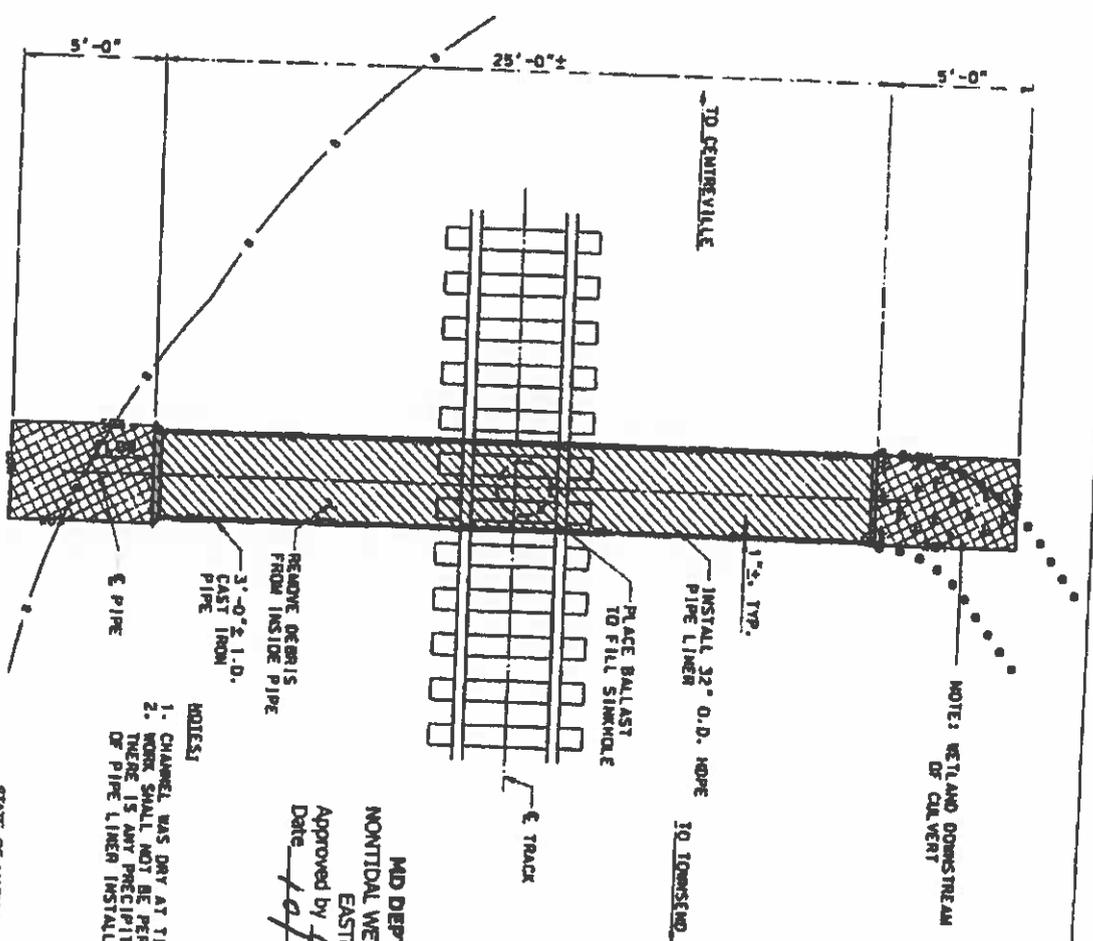


LEGEND

-  TEMPORARY WATERS OF THE US IMPACTS
-  PERMANENT WATERS OF THE US IMPACTS
-  TEMPORARY WETLANDS IMPACTS
-  LIMIT OF WORK
-  WATERS OF THE US
-  DIRECTION OF FLOW
-  WETLAND IMPACTS BOUNDARY
-  25' WETLAND BUFFER

TOTAL IMPACTS

- ~~PERMANENT WWS IMPACT: 25 LF, 75 SF~~
- ~~TEMPORARY WWS IMPACT: 10 LF, 90 SF~~
- PERMANENT WETLAND IMPACT: 0 SF
- TEMPORARY WETLAND IMPACT: 12 SF
- PERMANENT 25 FT BUFFER IMPACT: 75 SF
- TEMPORARY 25 FT BUFFER IMPACT: 18 SF
- 100 YR FLOODPLAIN IMPACTS: 0 SF, +0 CY (FILL)



NOTE: WETLAND DOWNSTREAM OF CULVERT

MD DEPT OF THE ENVIRONMENT
 NONTIDAL WETLANDS AND WATERWAYS DIV
 EASTERN REGIONAL OFFICE
 Approved by *Fawn M. Ford*
 Date *10/8/2013*

- NOTES:
1. CHANNEL WAS DRY AT TIME OF INSPECTION.
 2. WORK SHALL NOT BE PERFORMED WHEN THERE IS ANY PRECIPITATION ON THE DAY OF PIPE LINER INSTALLATION.

PLAN
 NOT TO SCALE

STATE OF MARYLAND
 DEPARTMENT OF TRANSPORTATION
 MARYLAND TRANSIT ADMINISTRATION
 WETLANDS AND WATERS OF THE
 US IMPACTS, PLATE 1
 REPAIRS TO CULVERT NO 28.62
 ALONG US 301 (CHESTER RIVER WATERSHED)
 QUEEN ANNE'S COUNTY, MARYLAND

SCALE: NTS DATE: JULY 2013 SHEET NO 1 OF 1



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1718
BALTIMORE, MD 21203-1718

201361451/13-NT-2089
Corps Permit Tracking Number

MDSPGP-4
CATEGORY A, ACTIVITY (A-b(1))
General Maintenance

The projects, structures and activities, listed below, must comply with all activity-specific conditions, in addition to all of the general conditions of this general permit.

This activity authorizes discharges of dredged or fill material for the repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill. This activity authorizes minor deviations in the configuration of the structure or filled area, including changes in materials, construction techniques, current construction codes, or safety standards that are necessary to make the repair, rehabilitation, or replacement, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modification must be immediately adjacent to the project. Currently serviceable means that the structure or fill is usable in its current condition, or with some maintenance, but not so degraded as to essentially require reconstruction. This activity also authorizes the removal of accumulated sediments and debris in the vicinity of, and within, existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.). This activity also authorizes repair, rehabilitation, or replacement in-kind of structures destroyed by storms, floods, fire or other discrete events. This activity authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Section 404(f) exemption for maintenance (Sections 10 and 404; all waters of the United States).

Impact Limits and Requirements:

- i. No application is required for Corps authorization except for replacement of previously authorized, currently serviceable structures, located along a Federally authorized navigation channel, that are destroyed by an act of nature or other sudden event, or for modification of previously authorized, currently serviceable structures located along Federally authorized navigation channels. In these cases, an application is required to be submitted to the Corps for review under Category B or alternate Corps permit review procedures, as appropriate.
- ii. The total temporary (i.e., construction impacts including stream diversion devices) and permanent impacts to waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open waters, are not to exceed 10,000 square feet and/or 500 linear feet of streams, rivers, and other open waters.
- iii. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend any further than 200 linear feet in any direction from the structure.
- iv. Any impact to waters of the United States, including wetlands, associated with this activity is to be minimized below these impact limits to the greatest extent possible.
- v. The following conditions are applicable to Coastal Plain streams, and Harford and Cecil County Piedmont streams:
 - (1) Permanent culvert pipes that are greater than 24 inches in diameter and bridge/arch footers must be countersunk a minimum of 12 inches below the natural stream invert.

MDSPGP-4
CATEGORY A, ACTIVITY (A-b(1))

-2-

- (2) Permanent culvert pipes and bridge/arch footers placed in streams on bedrock or over buried utility lines are exempt from these countersinking (i.e., depressing) requirements and must be constructed in accordance with the State of Maryland regulations. Permanent culvert pipes and bridge/arch footers placed in streams on bedrock or over buried utility lines are eligible for Category A review with specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipes/culvert.
- (3) All permanent culvert pipes greater than 24 inches in diameter and bridge/arch footers (except those placed in streams on bedrock or over buried utility lines) that cannot be countersunk in accordance with condition (1) above are not eligible for Category A and must be reviewed under Category B or alternate Corps permit review procedures, as appropriate.

Requirements Applicable to Both Category A and Category B Activities:

- i. An application is required to be submitted to the Corps for review under Category B for authorization of previously authorized, currently serviceable structures located along Federally authorized navigation channels that are destroyed by an act of nature or other sudden event or that are proposed to be modified.
- ii. The repair, rehabilitation, or replacement activity is limited to the original dimensions or configuration, except for minor deviations due to changes in materials, construction techniques, or current construction codes or safety standards. Minor deviations in the configuration of the structure or filled area must not exceed the minimum necessary to make the repair, rehabilitation, or replacement.
- iii. Repair, rehabilitation, or replacement of an existing serviceable structure should not result in the displacement of in-stream habitats or features important to anadromous, estuarine, and resident fish, such as plunge or scour pools. Work under this activity must not impede flow in the waterway and/or must not block or impede the movements of anadromous and resident fish.
- iv. Culverts must be adequately sized to allow for the passage of ordinary high water with the depression and invert restrictions taken into account.
- v. Extensions of existing pipes or culverts that are not depressed below the stream invert are exempt from the requirement to depress the culvert.
- vi. This activity does not authorize access roads. Access roads are authorized under IV.B. l.c.(7) Temporary Construction Access, Stream Diversion, and Dewatering.
- vii. The structure or fill must not be put to uses differing from those uses specified or contemplated for it in the original permit or the most recent authorized modification.
- viii. Repair, rehabilitation, or replacement of previously authorized, currently serviceable structures or fills destroyed or damaged by storms, floods, fire, or other discrete events must be started or under contract to start within 2 years of the date that they were damaged or destroyed.
- ix. Maintenance of existing stormwater management facilities must be performed in accordance with any maintenance plan to restore to the design as originally approved and constructed, which includes limiting excavation to the original contours.
- x. This activity does not authorize the discharge of dredged or fill material for the purpose of reclaiming land lost through gradual erosion processes.

MDSPGP-4
CATEGORY A, ACTIVITY (A-b(1))

-3-

- xi. This activity does not authorize any maintenance dredging, beach restoration, stream restoration, stream relocation, or channelization, and/or repair or replacement of bulkheads.**
- xli. This activity does not authorize blasting or other forms of uncontained in-water demolition.**
- xiii. All excavated materials must be deposited and retained in an upland (non-wetland) area.**



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1716
BALTIMORE, MD 21203-1716

REPLY TO
ATTENTION OF

Effective October 1, 2011

201361451/13-NT-2089
Corps Permit Number

CENAB-OP-R-MDSPGP-4 (MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-4)

TO WHOM IT MAY CONCERN:

Upon the recommendation of the Chief of Engineers, and under the provisions of Section 404 of the Clean Water Act, as amended, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Secretary of the Army hereby authorizes the discharge of dredged or fill material or the placement of structures into Waters of the United States, including wetlands and navigable waters. These discharges and structures must comply with all the terms and conditions identified in this MDSPGP-4. It has been determined that the project qualifies for the MDSPGP-4. Accordingly, you are authorized to undertake the activity pursuant to:

1. Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403); and/or
2. Section 404 of the Clean Water Act (33 U.S.C. 1344).

You are authorized to perform work in accordance with the terms and conditions specified in Section VII of the MDSPGP-4 effective on October 1, 2011.

VII. General Conditions: To qualify for MDSPGP-4 authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any activity-specific conditions in the MDSPGP-4 category list and any case-specific special conditions imposed by the Corps.

A. General Requirements:

1. **Other Permits:** Authorization under the MDSPGP-4 does not obviate the need to obtain other Federal, State, or local authorizations required by law.
2. **Geographic Jurisdiction:** This MDSPGP-4 will authorize work undertaken within the geographic limits of the State of Maryland under the regulatory jurisdiction of the Baltimore District.
3. **Applicability:** Applicability of the MDSPGP-4 shall be reviewed with reference to the Corps definition of waters of the United States, including wetlands, and navigable waters of the United States. Applicants are responsible for delineating boundaries of all waters of the United States, including wetland boundaries. The delineation of wetland boundaries shall be accomplished in accordance with the current Federal manual for identifying jurisdictional wetlands and appropriate guidance issued by the Corps of Engineers.
4. **Minimal Effects:** Projects authorized by the MDSPGP-4 shall have no more than minimal individual and cumulative adverse environmental effects.
5. **Discretionary Authority:** Notwithstanding compliance with the terms and conditions of the MDSPGP-4, the Corps retains discretionary authority to require an alternate Corps permit review for any project under all categories of the MDSPGP-4 based on concerns for the aquatic environment or for any other factor of the public interest. This authority may be invoked on a case-by-case basis during the review process for Category B activities whenever the Corps determines that, based on the concerns stated above, the potential consequences of the proposed project warrant individual review. In some rare instances, the Corps may have concerns for the aquatic environment or for any other public interest factor pertaining to a specific proposed project, which has already received a case-specific verification as a Category A activity. In order to evaluate this project under an alternate Corps permit review, the verification must be suspended in accordance with Section VIII.E of the MDSPGP-4.

Whenever the Corps notifies an applicant that an alternate Corps permit may be required, authorization under the MDSPGP-4 is voided. No work may be conducted until the individual Corps permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under the MDSPGP-4.

6. Single and Complete Projects: The MDSPGP-4 shall not be used for piecemeal work and shall be applied to single and complete projects, including maintenance activities. For purposes of this MDSPGP-4, a single and complete project means the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers and which has independent utility. All components of a project, including all attendant features both temporary and permanent, shall be reviewed together as constituting one single and complete project. All planned phases of multi-phased projects (e.g., subdivisions should include all work such as roads, utilities, and lot development) shall be applied for and reviewed together as constituting one single and complete project. The MDSPGP-4 shall not be used for any activity or portion of a project (e.g., a pier or boat ramp), that is part of, or dependent on, an overall project (e.g., the dredging of a main navigation channel or a spur channel), for which an individual permit or some other alternate Corps permit is required.

7. Use of Multiple MDSPGP-4 Activities: More than one MDSPGP-4 activity may be used to authorize a single and complete project. However, the specific requirements, including all activity-specific requirements and impact thresholds, must be met for each MDSPGP-4 activity and the total extent of project impacts must not exceed the acreage and/or linear foot limit of the MDSPGP-4 activity with the highest specified acreage and/or linear foot limit. For example, if a road crossing is authorized under Category A of Section IV.B.1.(d)(1) with an associated nontidal bank stabilization authorized under Section IV.B.1.f.(4)(a), the maximum total impact limits to nontidal waters of the United States for the single and complete project may not exceed 10,000 square feet in total area and/or 500 linear feet in total length. The road crossing and nontidal bank stabilization activities must still meet all Category A activity-specific requirements and impact thresholds.

A single and complete project with multiple impacts, that may be eligible for authorization under a Category A and a Category B activity, requires an application submittal to the Corps and review under the MDSPGP-4 Category B verification procedures. All specific requirements, including the activity-specific requirements and impact thresholds of the Category A activity and the Category B activity must be met and the total extent of project impacts must not exceed to total acreage and/or linear foot limit of the MDSPGP-4 activity with the highest specified acreage and/or linear foot limit. For example, if a road crossing is authorized under Category A of Section IV.B.1.(d)(1) with an associated nontidal bank stabilization authorized under Section IV.B.f.(4)(b), the maximum total impact limits to waters of the United States for the single and complete project may not exceed 1/2 acre (21,780 square feet) in total area and/or 2,000 linear feet in total length. The road crossing activity must meet the Category A activity-specific requirements and impact thresholds, and the nontidal bank stabilization activity must meet the Category B activity-specific requirements and impact thresholds.

8. Permit On-Site: The permittee shall ensure that a copy of the MDSPGP-4 and the accompanying authorization letter are at the work site at all times. These copies must be made available to any regulatory representative upon request. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be expected to comply with all conditions of any general permit authorization.

9. Authorized Activities in Navigable Waters Subject to Section 10 of the Rivers and Harbors Act of 1899:

a. If future operations by the United States require removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable water, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

b. The permittee acknowledges the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels and/or ice flows within the waterway. The issuance of this permit does not relieve the permittee from taking all proper steps to ensure the integrity of the structure permitted herein and the safety of vessels moored thereto from damage by wave wash and/or ice flows, and the permittee shall not hold the United States liable for such damage.

c. The permittee must install and maintain, at his/her expense any safety lights, markers, and/or signals prescribed by the USCG, through regulations or otherwise, on the authorized facilities and/or structures. The permittee must contact the Commander (AOWW), Fifth Coast Guard District, Federal Building, 431 Crawford

Street, Portsmouth, Virginia, 23704, to ascertain the need for obstruction lights. Prior to commencing the construction or installation of an authorized structure in navigable waters of the United States, the permittee must submit a "Private Aids to Navigation Application" to the Commander of the USCG.

d. The permittee must provide location coordinates of the authorized structures, including minimum depth and other pertinent information to the USCG and request that a Local Notice to Mariners is issued regarding the authorized work.

10. For Aerial Transmission Lines Across Navigable Waters: The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the USCG for new fixed bridges, in the vicinity of the proposed aerial transmission line. These clearances are based on the low point of the line under conditions producing the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code:

NOMINAL SYSTEM VOLTAGE (kV)	Minimum additional clearance (ft.) above clearance required for bridges.
115 and below	20
138	22
161	24
230	26
350	30
500	35
700	42
750-765	45

a. Clearances for communication lines, stream gauging cables, ferry cables, and other aerial crossings must be a minimum of ten feet above clearances required for bridges, unless specifically authorized otherwise by the District Engineer.

b. Corps Regulation ER 1110-2-4401 prescribes minimum vertical clearances for power communication lines over Corps lake projects. In instances where both the National Electrical Safety Code requirements and ER 1110-2-4401 apply, the greater minimum clearance is required.

A. National Concern:

1. **Historic Properties:** Any activity authorized by the MDSPGP-4 shall comply with Section 106 of the National Historic Preservation Act. Maryland Department of the Environment, in cooperation with the Maryland Historic Preservation Office, shall conduct an initial review and notify the Corps if any archaeological or other cultural resources are in the vicinity of the project. The Corps may require applicants to perform a survey of archaeological and historical resources in the project area. The Corps shall determine whether National Historic Preservation Act Section 106 consultation is required. The applicant must notify the Corps if they have knowledge that the activity may affect any historic properties listed or eligible for listing, or that the applicant has reason to believe may be eligible for listing on the National Register of Historic Places. If the permittee discovers any previously unknown archaeological or other cultural resource while accomplishing the work authorized by the MDSPGP-4, the permittee shall immediately notify the Corps of what has been found and stop work in the permit area until the required coordination has been completed. The permittee shall not begin or continue work until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied.

and that the activity may proceed. Information on the location and existence of historical resources can be obtained from the MHT, Office of Preservation Services, and the National Register of Historic Places.

2. **Tribal Rights:** No activity or its operation may impair reserved tribal rights, including but not limited to, reserved water rights and treaty fishing and hunting rights.

3. **National Lands:** Activities authorized by the MDSPGP-4 shall not impinge upon the value of any Federal land, including but not limited to, National Wildlife Refuges, National Forests, National Parks, National Marine Sanctuaries, or any area administered by the FWS, U.S. Forest Service, or National Park Service (e.g., Assateague Island National Seashore).

4. **Endangered Species:** The MDSPGP-4 does not authorize any activity that may directly or indirectly affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal ESA; or which may directly or indirectly destroy or adversely modify the critical habitat of such species unless and until appropriate coordination with the applicable resource agency(s) is complete and all such issues are resolved in accordance with the applicable regulations and procedures. MDE, in cooperation with MD DNR, shall conduct an initial review and notify the Corps and FWS or NMFS if any Federally listed species or critical habitat is likely to be in the vicinity of the project. The Corps shall determine if consultation with FWS or NMFS is required under Section 7 of the ESA. If consultation is required, the applicant, after notification, shall not begin or continue work until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is eligible for authorization. Information on the location of threatened and endangered species and their critical habitat can be obtained from FWS and NMFS. The Corps will be initiating consultation under the Endangered Species Act on this MDSPGP-4 and any conditions from that consultation will be inserted into the MDSPGP-4.

National Marine Fisheries Service – Endangered Species Act Requirements:

a. **Interactions with National Marine Fisheries Service Federally Threatened or Endangered Species:** Any interaction between a sea turtle or any species listed now or in the future under Federal law as a threatened or endangered species ("listed species") (e.g., North Atlantic right whale, humpback whale, shortnose sturgeon) and the vessels associated with the project must be reported to the NMFS as follows: If the animal appears alive and uninjured (i.e., breathing normally, no visible wounds, movement uninhibited), the permittee or its representative must report the incident to the NMFS Northeast Region Marine Mammal and Sea Turtle Stranding and Entanglement Hotline at (866) 755-6622 within 24 hours of returning from the trip on which they made the discovery. If the animal requires assistance, the call to the hotline must be made immediately. If the animal appears to be injured (i.e. bleeding, gasping for air, etc.) or dead, the permittee or its representative must also immediately call the hotline so the appropriate rehabilitation or stranding network representative can be contacted. The applicant shall also notify the Corps of all correspondence and interaction with the NMFS within two calendar days. Additional information about any Federally threatened or endangered species may be obtained from the attached fact sheet or online at: http://www.nero.noaa.gov/prot_res/stranding/SpeciesOverview.html and at: http://www.nero.noaa.gov/prot_res/esp/. An interaction is defined as an entanglement or capture of a listed species or a strike/direct contact between vessels or equipment used for the project and a listed species.

b. **Vessel Buffer:** When listed species are sighted, vessels must attempt to maintain a distance of 50 yards (150 feet) or greater between the animal and the vessel whenever possible. State and Federal regulations prohibit approaching a right whale within a 500 yard (1,500 foot) buffer zone. Any vessel finding itself within the 500 yard (1,500 foot) buffer zone created by a surfacing right whale must depart immediately at a safe, slow speed. If other listed species are detected, vessels will reduce their speeds to 10 knots or to the maximum extent practicable to ensure human safety. If listed species are sighted off of a moving dredge, intentional approaches within 100 yards (300 feet) of the animal must be avoided. Vessels must reduce speeds to 4 knots or the lowest speed practicable to ensure human safety. Any interactions must be reported to the NMFS.

c. **Best Management Practices Applicable to Category A Activities Within Tidal Waters Having Salinity Levels Less Than 6 Parts Per Thousand (ppt) (See Appendix B):**

(i) **Pile Driving:** For the protection of listed species within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels <6 ppt, pile driving methods must maintain noise level thresholds not to exceed 187dB SEL re 1µPa or 206dB peak re 1µPa at a distance of >10m from the pile being installed; and for levels >155dB peak re 1µPa must not exceed 12 consecutive hours on any given day and a 12 hour

recovery period (i.e., in-water noise levels below 155dB peak re 1µPa) must be provided between work days. Pile driving construction must adhere to one of the following methods: (a) piles must be installed in-the-dry during low water; or (b) piles must be drilled and pinned to ledge; or (c) vibratory hammers must be used to install any size and quantity of wood, concrete, or steel pilings; or (d) impact hammers must be limited to one hammer and <50 piles installed per day with the following: wood piles of any size; concrete piles <18-inches diameter; steel piles <12-inch diameter if the hammer is <3,000 pounds and a wood cushion is used between the hammer and steel pile; or (e) approved pile driving methods that will allow noise level thresholds to be met.

(ii) **Sediment Disturbing Activities Time-of-Year Restriction:** Sediment disturbing activities, which includes pile driving activities, are prohibited during the period April 1 through June 30 within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels <6 ppt for the protection of shortnose sturgeon and early life stages in these waters.

5. **Essential Fish Habitat (EFH) and Fish and Wildlife Coordination Act:** Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires an EFH consultation with the NMFS for any action or proposed action authorized, funded, or undertaken by a Federal agency that may adversely affect EFH. Essential Fish Habitat has been defined by Congress as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." The designation and conservation of EFH seeks to minimize adverse effects on habitat caused by fishing and non-fishing activities. NMFS has determined that many of the MDSPGP-4 Category A activities are eligible for EFH general or programmatic concurrence and require no further EFH consultation. National Marine Fisheries Service, in consultation with the District, has determined that individual EFH consultation is needed for some projects potentially eligible for authorization under Category A of the MDSPGP-4 that may adversely affect EFH. The Corps will coordinate with NMFS as part of the Category B review procedures. EFH conservation recommendations made by NMFS will normally be included as a permit requirement by the Corps. If the EFH coordination and consultation requirements cannot be resolved under the MDSPGP-4 process, an alternate Corps permit review process is required for the project. The Corps will be initiating consultation under these authorities on this MDSPGP-4, and any conditions from that consultation to protect NOAA trust resources will be inserted into this MDSPGP-4.

6. **Wild and Scenic Rivers:** No activity is authorized under the MDSPGP-4 that occurs in a component of the National Wild and Scenic River System, including rivers officially designated by Congress as study rivers for possible inclusion in the system, while such rivers are in an official study status, unless the appropriate Federal agency, with direct management responsibility for the river, has determined in writing that the proposed activity will not adversely affect any National Wild and Scenic River, including study rivers. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U. S. Forest Service, Bureau of Land Management, or FWS).

7. **Federally Authorized Civil Works Projects:**

a. **Federal Navigation Projects:** The MDSPGP-4 does not authorize interference with any existing or proposed Federal navigation projects. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration. (See VII.A.9.a.)

b. **Federal Navigation Channel Setbacks:** All activities must comply with the Baltimore District Minimum Setback Guidance for Structures Along Federally Authorized Channels. Please see the Baltimore District's Regulatory webpage to view this guidance:
<http://www.nab.usace.army.mil/Wetlands%20Permits/publications.htm>.

c. **Other Federally Authorized Civil Work Projects (e.g., flood control, dams, and reservoirs):** The MDSPGP-4 does not authorize interference with any proposed or existing Federally authorized civil works project.

8. **Federal Liability:** In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes;
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest;
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
- d. Design or construction deficiencies associated with the permitted work; and
- e. Damage claims associated with any future modification, suspension or revocation of the MDSPGP-4 or any specific MDSPGP-4 verification.

9. **Navigation:** Projects authorized under the MDSPGP-4 shall not cause interference with navigation, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to projects authorized under the MDSPGP-4. Nothing in the MDSPGP-4 shall in any way restrict the District Engineer, U.S. Army Engineer District, Baltimore, from exercising his legal authority to protect the public interest in navigation or from exercising his authority under the Navigation Servitude of the United States. (See VII.B.8.)

10. **Fills Within 100-Year Floodplain:** The activity must comply with applicable Federal Emergency Management Agency approved State or local floodplain management requirements.

11. **Safety of Impoundment Structures:** To ensure that all impoundment structures are safely designed, the Corps may require non-Federal applicants to demonstrate that the structures comply with established State dam safety criteria or have been designed by qualified persons. The Corps may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

B. Minimization of Environmental Impacts:

1. **Avoidance and Minimization:** Discharges of dredged or fill material into waters of the United States and adverse impacts of such discharges on the aquatic ecosystem shall be avoided and minimized to the maximum extent practicable at the project site (i.e., on-site).

2. **Mitigation Standards:** A proposed compensatory mitigation proposal may be submitted with the application to expedite the process. The Corps will determine if the project is eligible for authorization under the MDSPGP-4 subject to the applicant's submittal of a compensatory mitigation proposal for stream and wetland impacts. Compensatory mitigation plans will generally include a requirement for the establishment, performance, maintenance, legal protection (e.g., conservation easements), and long-term management of the mitigation area. Applicants may propose the use of mitigation banks, in-lieu-fee programs, or separate permittee-responsible mitigation. In general, maintenance of previously authorized activities typically does not require mitigation. All mitigation must be in compliance with the 2008 Mitigation Rule (73 FR 70).

a. Wetland mitigation will generally be required for all permanent tidal or nontidal wetland losses either through the use of the State's tidal or nontidal programmatic wetland compensation, mitigation banks, in-lieu-fee programs, and/or by the permittee as required by special condition of the MDSPGP-4 or the State authorization. Generally, the minimum required wetland mitigation ratios will be as follows: 2:1 for forested and scrub-shrub wetlands; 1:1 for herbaceous emergent wetlands, and 1:1 for permanent conversion of forested wetlands to herbaceous emergent wetlands. Wetland mitigation can include wetland restoration, establishment, enhancement (including restoration or enhancement of upland forested buffers), and/or wetland preservation, unless the Corps determines in writing that some other form of mitigation would be more appropriate and provides a project-specific waiver of this requirement. Since the likelihood of success is greater and the impacts are reduced, wetland restoration should be the first compensatory mitigation option considered.

b. Stream mitigation, focusing on functional replacement, will generally be required for any project that involves losses of more than 200 linear feet to stream channels and rivers through the use of mitigation banks, in-lieu-fee programs, or by the permittee as required by special condition of the MDSPGP-4 and/or the State authorization. Stream mitigation can include stream restoration, establishment, enhancement (including enhancement of riparian buffers), and stream preservation. Riparian buffer areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat impact concerns. The need to require mitigation for impacts to open waters will be determined on a case-by-case basis.

c. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu-fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee.

d. For permittee-responsible mitigation, the special conditions of the MDSPGP-4 verification must clearly indicate the party or parties responsible for the implementation, performance, and long-term management of the compensatory mitigation project.

3. **Work in Wetlands:** Heavy equipment working in wetlands shall be avoided if possible and, if required, soil and vegetation disturbance shall be minimized by using techniques such as timber mats, geotextile fabric, and vehicles with low-pressure tires. Disturbed areas in wetlands shall be restored to preconstruction contours and elevations upon completion of the work.

4. **Temporary Fill and Mats:** Temporary fill and the use of mats are both considered a discharge of fill material and must be included in the quantification of impact area authorized by the MDSPGP-4. Temporary fill (e.g., access roads, cofferdams) in waters and wetlands authorized by the MDSPGP-4 shall be properly stabilized during use to prevent erosion. Temporary fill in wetlands shall be placed on geotextile fabric laid on the existing wetland grade. Upon completion of the work, all temporary fills shall be disposed of at an upland site, suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas shall be restored to their original, pre-construction contours and revegetated with native wetland species.

5. **Erosion and Sediment Control:** Adequate erosion and sediment control measures, practices, and devices, such as turbidity curtains in tidal waters, vegetated filter strips, geotextile silt fences, phased construction, or other devices or methods, shall be used to reduce erosion and retain sediment on-site during and after construction. These devices and methods shall be capable of (a) preventing erosion, (b) collecting sediment and suspended and floating materials, and (c) filtering fine sediment. Erosion and sediment control devices shall be removed when the work is complete and the site has been successfully stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date. In-stream work shall be conducted "in the dry" whenever practicable. This should be accomplished using stream diversion devices, other than earthen or stone cofferdams. In addition, work in waters of the United States should be performed during periods of low-flow or no-flow, whenever practicable.

6. **Aquatic Life Movements:** No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through, or spawn/nursery within the area (e.g., anadromous/catadromous fish); unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. A low flow channel must be maintained through any discharges placed for armoring across the channel so as to not impede flow in the waterway and/or not to block or impede the movements of anadromous, estuarine, and resident fish. Permanent culvert or pipes placed in streams must be depressed in accordance with the State of Maryland regulations. If depression of the culvert is not practicable, the applicant must submit a narrative, along with their application, documenting measures evaluated to minimize disruption of the movement of aquatic life, as well as specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipe/culvert. Options that need to be considered include the use of a bridge, bottomless pipe, partial depression, or other measures to provide for the movement of aquatic organisms. The documentation must also include photographs documenting site conditions. The applicant may find it helpful to contact their regional fishery agency for recommendations about the measures to be taken to allow for fish passage

7. Water Crossings:

a. All temporary and permanent crossings of waterbodies shall be suitably bridged, culverted, or otherwise constructed to withstand and to prevent the restriction of high flows and tidal flows; to maintain existing low flows; and to prevent the obstruction of movement by aquatic life indigenous to the water body, including anadromous, estuarine, and resident fish species.

b. All water crossings (e.g., utility lines and road crossings) must be constructed roughly perpendicular to waters of the United States, including streams and wetlands. Where a utility line or access road is constructed parallel to a stream corridor, an undisturbed buffer shall be maintained between the utility line/access road and the waterway to avoid or minimize potential future impacts to waters of the United States. These potential impacts would include such issues as sewer line leaks or failures, future stream channel meandering, stream bank instability and failure, and right-of-way maintenance.

c. Water crossings must be constructed "in the dry" whenever practicable. This should be accomplished by using stream diversion devices other than earthen or stone cofferdams.

d. Equipment shall cross streams only at suitably constructed permanent or temporary crossings.

e. Temporary structures and fills shall be removed and the area restored to its original contours and elevations, or to the conditions specified in the approved plans. The temporary structures and the areas of fill associated with these structures must be included in the total waterway/wetlands impacts.

8. Discharge of Pollutants: All activities that are authorized under the MDSPGP-4 and that involve any discharge or relocation of pollutants into waters of the United States shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. 1251 et. Seq.), and applicable State and local laws and regulations. No discharge of dredged or fill material in association with this authorization may consist of unsuitable material such as trash, debris, car bodies, asphalt, etc.

9. Spawning Areas: Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill materials in fish and shellfish spawning or nursery areas during spawning seasons, shall be avoided. Impacts to these areas shall be avoided or minimized to the maximum extent practicable during all other times of year. Activities that result in the physical destruction (e.g., through excavation, dredging, mining, fill, or significant downstream sedimentation by substantial turbidity) of an important spawning/nursery area are not authorized by this MDSPGP-4.

10. Waterfowl Breeding and Wintering Areas: Discharges into breeding and wintering areas for migratory waterfowl shall be avoided to the maximum extent practicable.

11. Environmental Values: The permittee shall make every reasonable effort to construct or operate the work authorized under the MDSPGP-4 in a manner that maintains as many environmental values as practicable, and that avoids or minimizes any adverse impacts on existing fish, wildlife, and natural environmental values.

12. Management of Water Flows: To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

13. Water Supply Intakes: No discharge of dredged or fill material may occur in the proximity of a public water supply intake.

D. Procedural Conditions:

1. **Inspections:** The permittee shall permit the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary to ensure that the work is being performed in accordance with the terms and conditions of the MDSPGP-4. The District Engineer may also require post-construction engineering drawings (as-built plans) for completed work, and post-dredging survey drawings for any dredging work.

2. **Compliance Certification:** Every permittee who receives a written MDSPGP-4 verification shall submit a signed Compliance Certification Form within 60 days following completion of the authorized work and any required mitigation (but not mitigation monitoring, which requires separate submittals). Failure to submit the Compliance Certification Form by the permittee could result in the Corps taking appropriate non-compliance enforcement action against the permit holder. The Corps will provide a blank copy of the Compliance Certification Form to the permittee with the MDSPGP-4 verification. The completed form will include the following:

a. A statement that the authorized work either was or was not done in accordance with the MDSPGP-4 verification, including any general and/or specific conditions. If the activity was not done in accordance with the MDSPGP-4 verification, including any general and/or specific conditions and requirements, the permittee shall describe the specifics of the deviation from the authorized activity.

b. A statement that any required mitigation was or was not completed in accordance with the permit conditions. If the mitigation was not completed in accordance with the permit conditions, the permittee shall describe the specifics of the deviation from the permit conditions.

c. The signature of the permittee, certifying the completion of the work and compensatory mitigation.

After the project is completed, the certification shall be sent to the Baltimore District at the following address:

**U. S. Army Corps of Engineers
Baltimore District
Attn: CENAB-OP-R
P. O. Box 1715
Baltimore, Maryland 21203-1715**

3. **Transfer of MDSPGP-4 Verifications:** If the permittee sells the property associated with a MDSPGP-4 verification, the permittee may transfer the MDSPGP-4 verification to the new owner by submitting a letter to the Baltimore District Corps of Engineers office to validate the transfer. A copy of the MDSPGP-4 verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this MDSPGP-4 are still in existence at the time the property is transferred, the terms and conditions of this MDSPGP-4, including special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this MDSPGP-4 permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

4. **Maintenance:** The permittee shall properly maintain the work or structure authorized by the MDSPGP-4 in good condition and in compliance with the terms and conditions of the MDSPGP-4, including maintenance to ensure public safety.

5. **Property Rights:** The MDSPGP-4 does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.

6. **Modification, Suspension and Revocation:** The MDSPGP-4, or any verification under it, may be either modified, suspended, or revoked, in whole or in part, pursuant to DA policies and procedures and any such action shall not be the basis for any claim for damages against the United States.

7. **Restoration:** The permittee, upon receipt of a notice of revocation of authorization under the MDSPGP-4, shall restore the wetland or waterway to its former condition, without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.

8. **Special Conditions:** The Corps may impose special conditions on any project authorized under the MDSPGP-4, in cases where the Corps determines that special conditions are necessary to avoid or minimize adverse effects on the environment or on any other factor of the public interest. Failure to comply with all conditions of the authorization/ verification, including special conditions, will constitute a permit violation/ unauthorized work and may subject the permittee to criminal, civil, or administrative penalties, and/or restoration.

9. **False or Incomplete Information:** In granting authorization pursuant to this permit, the Baltimore District will rely upon information and data provided by the permittee. If the project is verified by the Corps or MDE under the MDSPGP-4 and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the MDSPGP-4 verification may be revoked, in whole or in part, and/or the United States may institute appropriate legal proceedings.

10. **Compliance:** Any activity performed in waters of the United States, including wetlands and navigable waters, that is not in compliance with all the terms and conditions of the MDSPGP-4, which includes the MDSPGP-4 authorized activity activity-specific requirements, constitutes unauthorized work and is subject to an enforcement action by the Corps or the EPA. Furthermore, the MDSPGP-4 does not delegate any Section 404 enforcement or regulatory authority. Unauthorized work in waters of the United States, including wetlands and navigable waters, is subject to one or more of the following responses by EPA and/or the Corps:

- a. A Cease and Desist order and/or an administrative compliance order requiring remedial action.
- b. Initiation and assessment of a Class I administrative penalty order pursuant to Section 309(g) of the CWA.
- c. Initiation and assessment of a Class II administrative penalty for continuing violation pursuant to Section 309(g) of the CWA.
- d. Referral of the case to the U. S. Attorney with a recommendation for a civil or criminal action.
- e. If the Corps determines that an after-the-fact application is appropriate, it will be reviewed following the appropriate procedures.
- f. Any other appropriate response.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

Operations Division

MDSPGP-4 PERMIT COMPLIANCE CERTIFICATION FORM (10/1/11)

Corps Permit Tracking No. _____ Category & Activity Number _____

Project Name _____ Applicant Name _____

Waterway _____ County _____

Dear Permittee:

In accordance with the compliance certification condition of your MDSPGP-4 authorization, you are required upon completion of all permitted work, or if mitigation/compensation is required, within 60 days following completion of the authorized work and any required mitigation (but not the mitigation monitoring, which requires separate submittals), to complete and sign this certification form and return it to the Corps of Engineers, Baltimore District, ATTN: CENAB-OP-R, P.O. Box 1715, Baltimore, Maryland 21203-1715.

Please note that the permitted activity is subject to compliance inspections by U.S. Army Corps of Engineers representatives. As a condition of this permit, failure to return this notification form, provide the required information below, or to perform the authorized work in compliance with the permit, can result in suspension, modification or revocation of your authorization in accordance with 33 CFR Part 325.7 and/or administrative, civil, and/or criminal penalties, in accordance with 33 CFR part 326.

Please provide the following information:

1. Date authorized work commenced: _____ 2. Date authorized work completed: _____

3. Was all work and any required mitigation, completed in accordance with your MDSPGP-4 authorization, including all general and/or specific conditions? YES ___ NO ___

4. For Category A projects involving pile driving activities that are within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels less than 6 parts per thousand (See Appendix B of the MDSPGP-4), please indicate the pile driving method that was used for the authorized work:

- ____ (a) Piles must be installed in-the-dry during low water;
- ____ (b) Piles must be drilled and pinned to ledge;
- ____ (c) Vibratory hammers must be used to install any size and quantity of wood, concrete, or steel pilings;
- ____ (d) Impact hammers must be limited to one hammer and <50 piles installed per day with the following: wood piles of any size; concrete piles <18-inches diameter; steel piles <12-inch diameter if the hammer is <3,000 pounds and a wood cushion is used between the hammer and steel pile;
- ____ (e) Approved pile driving methods that will allow noise level thresholds to be met.
Describe: _____

5. Explain in detail any deviations to the authorized work and/or mitigation (use additional sheets if necessary)

6. Was mitigation accomplished through a contribution to the Maryland Nontidal Wetlands Compensation Fund?
YES _____ NO _____ (if NO, please complete Nos. 6 and 7 below).

7. Wetland Mitigation: Required? YES _____ NO _____ Required Completion Date _____
Wetland Mitigation Completed? YES _____ NO _____ Mitigation Monitoring Reports Required? YES _____ NO _____

8. Please attach labeled photographs showing completed work including mitigation area(s).

I hereby certify that, except as noted above, that all work, including mitigation, has been completed in accordance with the terms and conditions, including special conditions of the above referenced permit.

Signature of Permittee Date

Address: _____

Telephone: _____

Signature of Contractor/Agent Date

Address: _____

Telephone: _____

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION
LETTER OF AUTHORIZATION

AUTHORIZATION NUMBER: 13-NT-2090/201361506
EFFECTIVE DATE: October 29, 2013
EXPIRATION DATE: October 29, 2016
AUTHORIZED PERSON: Maryland Transit Administration
6 Saint Paul St
Baltimore, Maryland 21202
Attn: Wane-Jang Lin



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 OF AUTHORIZATIONS, Maryland Transit Administration (AUTHORIZED PERSON"), IS HEREBY AUTHORIZED BY THE WATER MANAGEMENT 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 October 29, 2013 ("APPROVED PLAN") AND PREPARED BY Wallace Montgomery AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

To conduct maintenance and repair to MTA culvert(s) structure no. 7.73 utilizing stream diversion, sandbags/stone barriers during all phases of work. This authorized activity requiring the removal of vegetation shall temporarily disturb approximately 260 square feet of emergent nontidal wetlands, 1,585 square feet of regulated nontidal wetlands buffer and 75 linear feet of stream channel. No in-stream work shall be conducted from March 1 thru June 15 of any year. Project is located in Kennedyville, Kent County, Maryland.

MD Grid Coordinates: 182656 x 489205

Amanda Sigillito
Division Chief
Nontidal Wetlands Division

Attachments: Conditions of Authorization

cc: Harry Hunsicker – MDE Compliance Division w/file
Kelly Flint – MDE Waterway Construction Division
Maria Duley – Wallace Montgomery, Inc.

Received
Maryland Transit Administration

201361506a.laf

NOV - 1 2013

Office of Engineering
Track & Structural Preservation Engineering

THE FOLLOWING CONDITIONS OF AUTHORIZATION APPLY TO ALL ACTIVITIES AUTHORIZED BY
AUTHORIZATION NUMBER 13-NT-2090/201361506

Page 2 of 3

1. **Validity:** Authorization is valid only for use by Authorized Person. Authorization 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 Authorization.
2. **Initiation of Work, Modifications and Extension of Term:** Authorized Person shall initiate authorized activities with two (2) years of the Effective Date of this Authorization or the Authorization shall expire. Authorized Person may submit written requests to the Administration for (a) extension of the period for initiation of work, (b) modification of Authorization, including the Approved Plan, or, (c) not later than 45 days prior to Expiration Date, an extension of the 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.
3. **Responsibility and Compliance:** Authorized Person is fully responsible for all work performed and activities authorized by this Authorization shall be performed in compliance with this Authorization and Approved Plan. Authorized Person agrees that a copy of the Authorization and Approved Plan shall be kept at the construction site and provided to its employees, agents and contractors. A person (including Authorized Person, its employees, agents or contractors) who violates or fails to comply with the terms and conditions of this Authorization, 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 Authorized Person, its employees, agents or contractors fail to comply with this Authorization or Approved Plan, the Administration may, in its discretion, issue an administrative order requiring Authorized Person, its employees, agents and contractors to cease and desist any activities which violate this Authorization, or the Administration may take any other enforcement action available to it by law, including filing civil or criminal charges.
5. **Suspension or Revocation:** Authorization may be suspended or revoked by the Administration, after notice of opportunity for a hearing, if Authorized Person: (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 Authorization; (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 Authorization and new information, changes in site conditions, or amended regulatory requirements necessitate revocation or suspension.
6. **Other Approvals:** Authorization 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:** Authorized Person 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. Authorized Person shall provide necessary assistance to effectively and safely conduct such inspections and evaluations.
8. **Inspection Notification:** Authorized Person 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, Authorized Person shall call 301-689-1480. For Carroll, Frederick, Howard, Montgomery and Prince George's Counties, Authorized Person shall call 301-665-2850. For Baltimore City, Anne Arundel, Baltimore, Calvert, Charles, and St. Mary's Counties, Authorized Person shall call 410-537-3510. For Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, Somerset, Talbot, Wicomico and Worcester Counties, Authorized Person shall call 410-901-4020. If Authorization is for a project that is part of a mining site, please contact the Land Management 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:** Authorized Person shall obtain approval from the Kent Soil Conservation District 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. **Federally Mandated State Authorizations:**
 - Water Quality Certification:** Water Quality Certification is granted for this project provided that all work is performed in accordance with the authorized project description and associated conditions.
 - Coastal Zone Consistency:** This Authorization constitutes official notification that authorized activities are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the Federal Coastal Zone Management Act of 1972, as amended. Activities within the following counties are not subject to this requirement: Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington.

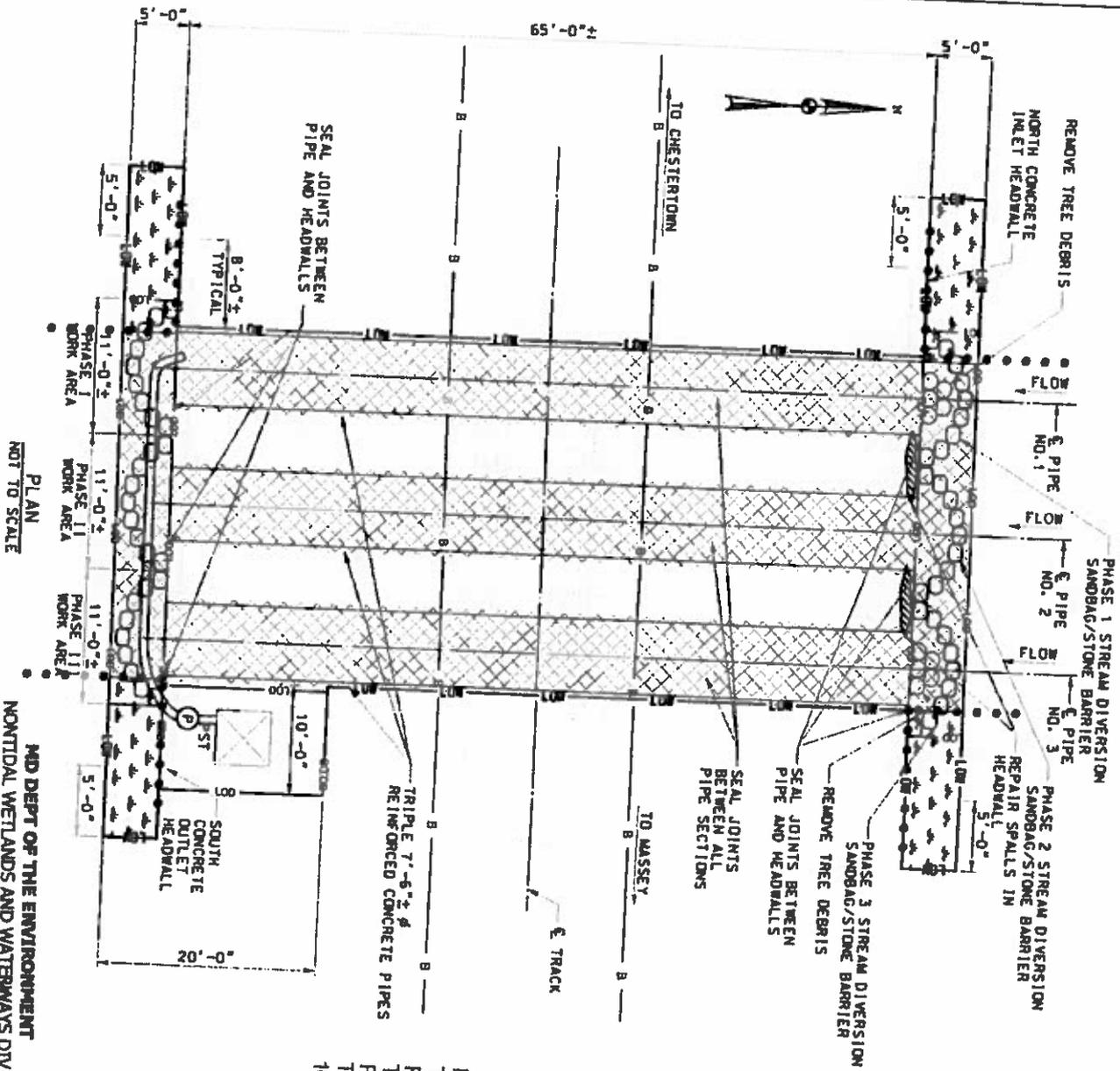
THE FOLLOWING CONDITIONS OF AUTHORIZATION APPLY TO ALL ACTIVITIES AUTHORIZED BY
AUTHORIZATION NUMBER 13-NT-2090/201361506

Page 3 of 3

11. **Best Management Practices During Construction:** Authorized Person, its employees, agents and contractors shall conduct authorized activities in a manner consistent with the Best Management Practices specified by the Administration.
12. **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.
13. **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.
14. **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, Authorized Person, 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.
15. **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.
16. **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): Morgan Creek is a Use I waterway; in-stream work may not be conducted from March 1 through June 15 inclusive, of any year.
17. **Instream Blasting:** Authorized Person shall obtain prior written approval from the Administration before blasting or using explosives in the stream channel.
18. **Minimum Disturbance:** Any disturbance of stream banks, channel bottom, wetlands, and wetlands buffer authorized by this Authorization 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.
19. **Restoration of Construction Site:** Authorized Person 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 Authorized Person as directed by the Administration.
20. **Mitigation:** Authorized Person shall mitigate for the loss of <N/A> by creating the equivalent of at least <N/A>, 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. A Phase II Mitigation Plan shall be submitted to the Section no later than 90 days after the issuance of this Letter of Authorization, unless an extension has been granted in writing by the Section. The Phase II Mitigation Plan must be approved by the Section, through the Phase II Mitigation Plan Approval Letter and its associated exhibits ("Approval Letter"), prior to commencing the impacts authorized in this Authorization. The Authorized Person shall successfully construct the mitigation site 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 Authorization. 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 Authorized Person is required to notify the Section upon the start of grading and the completion of planting of the mitigation project. The Authorized Person shall submit monitoring reports for the mitigation project to the Section as specified in the Approval Letter. If the Authorized Person as stated in the Authorization, changes, the Authorized Person must notify the Section. If the mitigation obligation is to be transferred to another party, the Authorized Person must notify the Section

U.S. ARMY CORPS OF ENGINEERS AUTHORIZATION

The U.S. Army Corps of Engineers has reviewed this activity and has granted authorization under the Maryland State Programmatic General Permit (MDSPGP-4), as a Category A activity. The terms and conditions of the MDSPGP-4, as outlined in the enclosed attachment, should be followed when performing the authorized work.



PLAN
NOT TO SCALE

M/D DEPT OF THE ENVIRONMENT
NONPOINT WETLANDS AND WATERWAYS DIV
EASTERN REGIONAL OFFICE

Approved by *[Signature]*
Date *October 29, 2013*

LEGEND

- TEMPORARY WATERS OF THE US IMPACTS
- TEMPORARY WETLANDS IMPACTS
- LIMIT OF WORK
- LIMIT OF DISTURBANCE
- WATERS OF THE US
- DIRECTION OF FLOW
- PORTABLE SEDIMENT TANK
- STREAM DIVERSION PUMP
- STREAM DIVERSION SANDBAG/STONE BARRIER
- WETLAND IMPACTS BOUNDARY
- 25' BUFFER BOUNDARY

TOTAL IMPACTS

- PERMANENT WUS IMPACT: 0 LF, 0 SF
- TEMPORARY WUS IMPACT: 75 LF, 1773 SF
- PERMANENT WETLAND IMPACT: 0 SF
- TEMPORARY WETLAND IMPACT: 280 SF
- PERMANENT 25 FT BUFFER IMPACT: 0 SF
- TEMPORARY 25 FT BUFFER IMPACT: 1585 SF
- 100 YR FLOODPLAIN IMPACTS: 0 SF, +0 CY (FILL)

NOTES:

1. WORK SHALL NOT BE PERFORMED ON A DAY WHEN THERE IS NO PRECIPITATION IN THE FORECAST. THE CONTRACTOR SHOULD WAIT AT LEAST 8 HOURS BEFORE THE AREA REPAIRED IS SUBMERGED WITH WATER.

STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION
MARTLAND TRAVISIT ADMINISTRATION

WETLANDS AND WATERS OF THE
US IMPACTS, PLATE 1
REPAIRS TO CULVERT NO 7.73
AT MORGAN CREEK
KENT COUNTY, MARYLAND

SCALE N.T.S.

DATE: OCT 2013

SHEET NO 1 OF 1



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

201361506/13-NT-2090
Corps Permit Tracking Number

MDSPGP-4
CATEGORY A, ACTIVITY (A-b(1))
General Maintenance

The projects, structures and activities, listed below, must comply with all activity-specific conditions, in addition to all of the general conditions of this general permit.

This activity authorizes discharges of dredged or fill material for the repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill. This activity authorizes minor deviations in the configuration of the structure or filled area, including changes in materials, construction techniques, current construction codes, or safety standards that are necessary to make the repair, rehabilitation, or replacement, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modification must be immediately adjacent to the project. Currently serviceable means that the structure or fill is usable in its current condition, or with some maintenance, but not so degraded as to essentially require reconstruction. This activity also authorizes the removal of accumulated sediments and debris in the vicinity of, and within, existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.). This activity also authorizes repair, rehabilitation, or replacement in-kind of structures destroyed by storms, floods, fire or other discrete events. This activity authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Section 404(f) exemption for maintenance (Sections 10 and 404; all waters of the United States).

Impact Limits and Requirements:

- i. No application is required for Corps authorization except for replacement of previously authorized, currently serviceable structures, located along a Federally authorized navigation channel, that are destroyed by an act of nature or other sudden event, or for modification of previously authorized, currently serviceable structures located along Federally authorized navigation channels. In these cases, an application is required to be submitted to the Corps for review under Category B or alternate Corps permit review procedures, as appropriate.
- ii. The total temporary (i.e., construction impacts including stream diversion devices) and permanent impacts to waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open waters, are not to exceed 10,000 square feet and/or 500 linear feet of streams, rivers, and other open waters.
- iii. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend any further than 200 linear feet in any direction from the structure.
- iv. Any impact to waters of the United States, including wetlands, associated with this activity is to be minimized below these impact limits to the greatest extent possible.
- v. The following conditions are applicable to Coastal Plain streams, and Harford and Cecil County Piedmont streams:
 - (1) Permanent culvert pipes that are greater than 24 inches in diameter and bridge/arch footers must be countersunk a minimum of 12 inches below the natural stream invert.

MDSPGP-4
CATEGORY A, ACTIVITY (A-b(1))

-2-

- (2) Permanent culvert pipes and bridge/arch footers placed in streams on bedrock or over buried utility lines are exempt from these countersinking (i.e., depressing) requirements and must be constructed in accordance with the State of Maryland regulations. Permanent culvert pipes and bridge/arch footers placed in streams on bedrock or over buried utility lines are eligible for Category A review with specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipes/culvert.
- (3) All permanent culvert pipes greater than 24 inches in diameter and bridge/arch footers (except those placed in streams on bedrock or over buried utility lines) that cannot be countersunk in accordance with condition (1) above are not eligible for Category A and must be reviewed under Category B or alternate Corps permit review procedures, as appropriate.

Requirements Applicable to Both Category A and Category B Activities:

- i. An application is required to be submitted to the Corps for review under Category B for authorization of previously authorized, currently serviceable structures located along Federally authorized navigation channels that are destroyed by an act of nature or other sudden event or that are proposed to be modified.
- ii. The repair, rehabilitation, or replacement activity is limited to the original dimensions or configuration, except for minor deviations due to changes in materials, construction techniques, or current construction codes or safety standards. Minor deviations in the configuration of the structure or filled area must not exceed the minimum necessary to make the repair, rehabilitation, or replacement.
- iii. Repair, rehabilitation, or replacement of an existing serviceable structure should not result in the displacement of in-stream habitats or features important to anadromous, estuarine, and resident fish, such as plunge or scour pools. Work under this activity must not impede flow in the waterway and/or must not block or impede the movements of anadromous and resident fish.
- iv. Culverts must be adequately sized to allow for the passage of ordinary high water with the depression and invert restrictions taken into account.
- v. Extensions of existing pipes or culverts that are not depressed below the stream invert are exempt from the requirement to depress the culvert.
- vi. This activity does not authorize access roads. Access roads are authorized under IV.B.1.e.(7) Temporary Construction Access, Stream Diversion, and Dewatering.
- vii. The structure or fill must not be put to uses differing from those uses specified or contemplated for it in the original permit or the most recent authorized modification.
- viii. Repair, rehabilitation, or replacement of previously authorized, currently serviceable structures or fills destroyed or damaged by storms, floods, fire, or other discrete events must be started or under contract to start within 2 years of the date that they were damaged or destroyed.
- ix. Maintenance of existing stormwater management facilities must be performed in accordance with any maintenance plan to restore to the design as originally approved and constructed, which includes limiting excavation to the original contours.
- x. This activity does not authorize the discharge of dredged or fill material for the purpose of reclaiming land lost through gradual erosion processes.

MDSPGP-4
CATEGORY A, ACTIVITY (A-b(1))

-3-

- xi. This activity does not authorize any maintenance dredging, beach restoration, stream restoration, stream relocation, or channelization, and/or repair or replacement of bulkheads.**
- xii. This activity does not authorize blasting or other forms of uncontained in-water demolition.**
- xiii. All excavated materials must be deposited and retained in an upland (non-wetland) area.**



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1716
BALTIMORE, MD 21203-1716

IMPORTANT INFORMATION ABOUT YOUR PROJECT

Corps Permit Tracking No.: 201361506/13-NT-2090 Date: October 29, 2013

Permittee/Project Name: MTA 7.73 Rail Line MDSPGP-4 Category and Activity No.: AB-1

Dear Applicant:

The U. S. Army Corps of Engineers, Baltimore District, has determined that the proposed work meets the enclosed terms and conditions of the Maryland State Programmatic General Permit-4 (MDSPGP-4). A requisite of permit issuance requires that the applicant comply with any specific terms and conditions associated with the authorized project (conditions enclosed). This MDSPGP-4 verification is provided pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. If any of the information contained in your application and/or plans is later found to be in error, the MDSPGP-4 authorization for your project may be modified, suspended, or revoked.

As a condition of the MDSPGP-4 authorization, you, the permittee, are required to complete and sign the enclosed Compliance Self-Certification Form regarding the completed work and any required mitigation. The signed form should be returned to the Regulatory Branch at the above address within 60 days following completion of the authorized work and any required mitigation.

Please be aware that the terms and conditions of this permit will continue to be binding on the new property owner(s) if structures or work authorized by this permit exist at the time of ownership transfer of the associated property. Although the construction period for work authorized by this MDSPGP-4 is finite, the permit itself, with its limitations, does not expire. To validate the transfer of this permit and the legal responsibility to comply with its terms and conditions, the transferee (new owner) must provide the Corps a mailing address and telephone number along with their signature and date in the space provided below and mail a copy to the above address.

Your MDSPGP-4 authorization is valid until September 30, 2016 unless the permit is modified, reissued, or revoked. You must remain informed of the changes to the MDSPGP-4. When changes to the MDSPGP-4 occur, a public notice announcing the changes will be issued. Be advised that you have 12 months from the effective date of the MDSPGP-4's expiration, modification or revocation to complete the work under the present terms and conditions provided you have commenced construction or are under contract to commence construction of the authorized work.

In order for this authorization to be valid, you must obtain all required Federal, State, and local permits.

William P. Seib

William P. Seib
Chief, Regulatory Branch

TRANSFeree SIGNATURE

DATE

AREA CODE / TELEPHONE NO.

PRINTED NAME

ADDRESS



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

REPLY TO
ATTENTION OF

Effective October 1, 2011

201361506/13-NT-2090
Corps Permit Number

CENAB-OP-R-MDSPGP-4 (MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-4)

TO WHOM IT MAY CONCERN:

Upon the recommendation of the Chief of Engineers, and under the provisions of Section 404 of the Clean Water Act, as amended, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Secretary of the Army hereby authorizes the discharge of dredged or fill material or the placement of structures into Waters of the United States, including wetlands and navigable waters. These discharges and structures must comply with all the terms and conditions identified in this MDSPGP-4. It has been determined that the project qualifies for the MDSPGP-4. Accordingly, you are authorized to undertake the activity pursuant to:

1. Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403); and/or
2. Section 404 of the Clean Water Act (33 U.S.C. 1344).

You are authorized to perform work in accordance with the terms and conditions specified in Section VII of the MDSPGP-4 effective on October 1, 2011.

VII. General Conditions: To qualify for MDSPGP-4 authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any activity-specific conditions in the MDSPGP-4 category list and any case-specific special conditions imposed by the Corps.

A. General Requirements:

1. **Other Permits:** Authorization under the MDSPGP-4 does not obviate the need to obtain other Federal, State, or local authorizations required by law.
2. **Geographic Jurisdiction:** This MDSPGP-4 will authorize work undertaken within the geographic limits of the State of Maryland under the regulatory jurisdiction of the Baltimore District.
3. **Applicability:** Applicability of the MDSPGP-4 shall be reviewed with reference to the Corps definition of waters of the United States, including wetlands, and navigable waters of the United States. Applicants are responsible for delineating boundaries of all waters of the United States, including wetland boundaries. The delineation of wetland boundaries shall be accomplished in accordance with the current Federal manual for identifying jurisdictional wetlands and appropriate guidance issued by the Corps of Engineers.
4. **Minimal Effects:** Projects authorized by the MDSPGP-4 shall have no more than minimal individual and cumulative adverse environmental effects.
5. **Discretionary Authority:** Notwithstanding compliance with the terms and conditions of the MDSPGP-4, the Corps retains discretionary authority to require an alternate Corps permit review for any project under all categories of the MDSPGP-4 based on concerns for the aquatic environment or for any other factor of the public interest. This authority may be invoked on a case-by-case basis during the review process for Category B activities whenever the Corps determines that, based on the concerns stated above, the potential consequences of the proposed project warrant individual review. In some rare instances, the Corps may have concerns for the aquatic environment or for any other public interest factor pertaining to a specific proposed project, which has already received a case-specific verification as a Category A activity. In order to evaluate this project under an alternate Corps permit review, the verification must be suspended in accordance with Section VIII.E of the MDSPGP-4.

Whenever the Corps notifies an applicant that an alternate Corps permit may be required, authorization under the MDSPGP-4 is voided. No work may be conducted until the individual Corps permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under the MDSPGP-4.

6. Single and Complete Projects: The MDSPGP-4 shall not be used for piecemeal work and shall be applied to single and complete projects, including maintenance activities. For purposes of this MDSPGP-4, a single and complete project means the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers and which has independent utility. All components of a project, including all attendant features both temporary and permanent, shall be reviewed together as constituting one single and complete project. All planned phases of multi-phased projects (e.g., subdivisions should include all work such as roads, utilities, and lot development) shall be applied for and reviewed together as constituting one single and complete project. The MDSPGP-4 shall not be used for any activity or portion of a project (e.g., a pier or boat ramp), that is part of, or dependent on, an overall project (e.g., the dredging of a main navigation channel or a spur channel), for which an individual permit or some other alternate Corps permit is required.

7. Use of Multiple MDSPGP-4 Activities: More than one MDSPGP-4 activity may be used to authorize a single and complete project. However, the specific requirements, including all activity-specific requirements and impact thresholds, must be met for each MDSPGP-4 activity and the total extent of project impacts must not exceed the acreage and/or linear foot limit of the MDSPGP-4 activity with the highest specified acreage and/or linear foot limit. For example, if a road crossing is authorized under Category A of Section IV.B.1.(d)(1) with an associated nontidal bank stabilization authorized under Section IV.B.1.f.(4)(a), the maximum total impact limits to nontidal waters of the United States for the single and complete project may not exceed 10,000 square feet in total area and/or 500 linear feet in total length. The road crossing and nontidal bank stabilization activities must still meet all Category A activity-specific requirements and impact thresholds.

A single and complete project with multiple impacts, that may be eligible for authorization under a Category A and a Category B activity, requires an application submittal to the Corps and review under the MDSPGP-4 Category B verification procedures. All specific requirements, including the activity-specific requirements and impact thresholds of the Category A activity and the Category B activity must be met and the total extent of project impacts must not exceed to total acreage and/or linear foot limit of the MDSPGP-4 activity with the highest specified acreage and/or linear foot limit. For example, if a road crossing is authorized under Category A of Section IV.B.1.(d)(1) with an associated nontidal bank stabilization authorized under Section IV.B.f.(4)(b), the maximum total impact limits to waters of the United States for the single and complete project may not exceed 1/2 acre (21,780 square feet) in total area and/or 2,000 linear feet in total length. The road crossing activity must meet the Category A activity-specific requirements and impact thresholds, and the nontidal bank stabilization activity must meet the Category B activity-specific requirements and impact thresholds.

8. Permit On-Site: The permittee shall ensure that a copy of the MDSPGP-4 and the accompanying authorization letter are at the work site at all times. These copies must be made available to any regulatory representative upon request. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be expected to comply with all conditions of any general permit authorization.

9. Authorized Activities in Navigable Waters Subject to Section 10 of the Rivers and Harbors Act of 1899:

a. If future operations by the United States require removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable water, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

b. The permittee acknowledges the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels and/or ice flows within the waterway. The issuance of this permit does not relieve the permittee from taking all proper steps to ensure the integrity of the structure permitted herein and the safety of vessels moored thereto from damage by wave wash and/or ice flows, and the permittee shall not hold the United States liable for such damage.

c. The permittee must install and maintain, at his/her expense any safety lights, markers, and/or signals prescribed by the USCG, through regulations or otherwise, on the authorized facilities and/or structures. The permittee must contact the Commander (AOWW), Fifth Coast Guard District, Federal Building, 431 Crawford

Street, Portsmouth, Virginia, 23704, to ascertain the need for obstruction lights. Prior to commencing the construction or installation of an authorized structure in navigable waters of the United States, the permittee must submit a "Private Aids to Navigation Application" to the Commander of the USCG.

d. The permittee must provide location coordinates of the authorized structures, including minimum depth and other pertinent information to the USCG and request that a Local Notice to Mariners is issued regarding the authorized work.

10. For Aerial Transmission Lines Across Navigable Waters: The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the USCG for new fixed bridges, in the vicinity of the proposed aerial transmission line. These clearances are based on the low point of the line under conditions producing the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code:

NOMINAL SYSTEM VOLTAGE (kV)	Minimum additional clearance (ft.) above clearance required for bridges.
115 and below	20
138	22
161	24
230	26
350	30
500	35
700	42
750-765	45

a. Clearances for communication lines, stream gauging cables, ferry cables, and other aerial crossings must be a minimum of ten feet above clearances required for bridges, unless specifically authorized otherwise by the District Engineer.

b. Corps Regulation ER 1110-2-4401 prescribes minimum vertical clearances for power communication lines over Corps lake projects. In instances where both the National Electrical Safety Code requirements and ER 1110-2-4401 apply, the greater minimum clearance is required.

A. National Concern:

1. **Historic Properties:** Any activity authorized by the MDSPGP-4 shall comply with Section 106 of the National Historic Preservation Act. Maryland Department of the Environment, in cooperation with the Maryland Historic Preservation Office, shall conduct an initial review and notify the Corps if any archaeological or other cultural resources are in the vicinity of the project. The Corps may require applicants to perform a survey of archaeological and historical resources in the project area. The Corps shall determine whether National Historic Preservation Act Section 106 consultation is required. The applicant must notify the Corps if they have knowledge that the activity may affect any historic properties listed or eligible for listing, or that the applicant has reason to believe may be eligible for listing on the National Register of Historic Places. If the permittee discovers any previously unknown archaeological or other cultural resource while accomplishing the work authorized by the MDSPGP-4, the permittee shall immediately notify the Corps of what has been found and stop work in the permit area until the required coordination has been completed. The permittee shall not begin or continue work until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied.

and that the activity may proceed. Information on the location and existence of historical resources can be obtained from the MHT, Office of Preservation Services, and the National Register of Historic Places.

2. **Tribal Rights:** No activity or its operation may impair reserved tribal rights, including but not limited to, reserved water rights and treaty fishing and hunting rights.

3. **National Lands:** Activities authorized by the MDSPGP-4 shall not impinge upon the value of any Federal land, including but not limited to, National Wildlife Refuges, National Forests, National Parks, National Marine Sanctuaries, or any area administered by the FWS, U.S. Forest Service, or National Park Service (e.g., Assateague Island National Seashore).

4. **Endangered Species:** The MDSPGP-4 does not authorize any activity that may directly or indirectly affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal ESA; or which may directly or indirectly destroy or adversely modify the critical habitat of such species unless and until appropriate coordination with the applicable resource agency(s) is complete and all such issues are resolved in accordance with the applicable regulations and procedures. MDE, in cooperation with MD DNR, shall conduct an initial review and notify the Corps and FWS or NMFS if any Federally listed species or critical habitat is likely to be in the vicinity of the project. The Corps shall determine if consultation with FWS or NMFS is required under Section 7 of the ESA. If consultation is required, the applicant, after notification, shall not begin or continue work until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is eligible for authorization. Information on the location of threatened and endangered species and their critical habitat can be obtained from FWS and NMFS. The Corps will be initiating consultation under the Endangered Species Act on this MDSPGP-4 and any conditions from that consultation will be inserted into the MDSPGP-4.

National Marine Fisheries Service – Endangered Species Act Requirements:

a. **Interactions with National Marine Fisheries Service Federally Threatened or Endangered Species:** Any interaction between a sea turtle or any species listed now or in the future under Federal law as a threatened or endangered species (“listed species”) (e.g., North Atlantic right whale, humpback whale, shortnose sturgeon) and the vessels associated with the project must be reported to the NMFS as follows: If the animal appears alive and uninjured (i.e., breathing normally, no visible wounds, movement uninhibited), the permittee or its representative must report the incident to the NMFS Northeast Region Marine Mammal and Sea Turtle Stranding and Entanglement Hotline at (866) 755-6622 within 24 hours of returning from the trip on which they made the discovery. If the animal requires assistance, the call to the hotline must be made immediately. If the animal appears to be injured (i.e. bleeding, gasping for air, etc.) or dead, the permittee or its representative must also immediately call the hotline so the appropriate rehabilitation or stranding network representative can be contacted. The applicant shall also notify the Corps of all correspondence and interaction with the NMFS within two calendar days. Additional information about any Federally threatened or endangered species may be obtained from the attached fact sheet or online at: http://www.nmfs.noaa.gov/prot_res/stranding/SpeciesOverview.html and at: http://www.nmfs.noaa.gov/prot_res/csp/. An interaction is defined as an entanglement or capture of a listed species or a strike/direct contact between vessels or equipment used for the project and a listed species.

b. **Vessel Buffer:** When listed species are sighted, vessels must attempt to maintain a distance of 50 yards (150 feet) or greater between the animal and the vessel whenever possible. State and Federal regulations prohibit approaching a right whale within a 500 yard (1,500 foot) buffer zone. Any vessel finding itself within the 500 yard (1,500 foot) buffer zone created by a surfacing right whale must depart immediately at a safe, slow speed. If other listed species are detected, vessels will reduce their speeds to 10 knots or to the maximum extent practicable to ensure human safety. If listed species are sighted off of a moving dredge, intentional approaches within 100 yards (300 feet) of the animal must be avoided. Vessels must reduce speeds to 4 knots or the lowest speed practicable to ensure human safety. Any interactions must be reported to the NMFS.

c. **Best Management Practices Applicable to Category A Activities Within Tidal Waters Having Salinity Levels Less Than 6 Parts Per Thousand (ppt) (See Appendix B):**

(i) **Pile Driving:** For the protection of listed species within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels <6 ppt, pile driving methods must maintain noise level thresholds not to exceed 187dB SEL re 1µPa or 206dB peak re 1µPa at a distance of >10m from the pile being installed; and for levels >155dB peak re 1µPa must not exceed 12 consecutive hours on any given day and a 12 hour

recovery period (i.e., in-water noise levels below 155dB peak re 1µPa) must be provided between work days. Pile driving construction must adhere to one of the following methods: (a) piles must be installed in-the-dry during low water; or (b) piles must be drilled and pinned to ledge; or (c) vibratory hammers must be used to install any size and quantity of wood, concrete, or steel pilings; or (d) impact hammers must be limited to one hammer and <50 piles installed per day with the following: wood piles of any size; concrete piles <18-inches diameter; steel piles <12-inch diameter if the hammer is <3,000 pounds and a wood cushion is used between the hammer and steel pile; or (e) approved pile driving methods that will allow noise level thresholds to be met.

(ii) **Sediment Disturbing Activities Time-of-Year Restriction:** Sediment disturbing activities, which includes pile driving activities, are prohibited during the period April 1 through June 30 within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels <6 ppt for the protection of shortnose sturgeon and early life stages in these waters.

5. **Essential Fish Habitat (EFH) and Fish and Wildlife Coordination Act:** Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires an EFH consultation with the NMFS for any action or proposed action authorized, funded, or undertaken by a Federal agency that may adversely affect EFH. Essential Fish Habitat has been defined by Congress as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." The designation and conservation of EFH seeks to minimize adverse effects on habitat caused by fishing and non-fishing activities. NMFS has determined that many of the MDSPGP-4 Category A activities are eligible for EFH general or programmatic concurrence and require no further EFH consultation. National Marine Fisheries Service, in consultation with the District, has determined that individual EFH consultation is needed for some projects potentially eligible for authorization under Category A of the MDSPGP-4 that may adversely affect EFH. The Corps will coordinate with NMFS as part of the Category B review procedures. EFH conservation recommendations made by NMFS will normally be included as a permit requirement by the Corps. If the EFH coordination and consultation requirements cannot be resolved under the MDSPGP-4 process, an alternate Corps permit review process is required for the project. The Corps will be initiating consultation under these authorities on this MDSPGP-4, and any conditions from that consultation to protect NOAA trust resources will be inserted into this MDSPGP-4.

6. **Wild and Scenic Rivers:** No activity is authorized under the MDSPGP-4 that occurs in a component of the National Wild and Scenic River System, including rivers officially designated by Congress as study rivers for possible inclusion in the system, while such rivers are in an official study status, unless the appropriate Federal agency, with direct management responsibility for the river, has determined in writing that the proposed activity will not adversely affect any National Wild and Scenic River, including study rivers. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U. S. Forest Service, Bureau of Land Management, or FWS).

7. **Federally Authorized Civil Works Projects:**

a. **Federal Navigation Projects:** The MDSPGP-4 does not authorize interference with any existing or proposed Federal navigation projects. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration. (See VII.A.9.a.)

b. **Federal Navigation Channel Setbacks:** All activities must comply with the Baltimore District Minimum Setback Guidance for Structures Along Federally Authorized Channels. Please see the Baltimore District's Regulatory webpage to view this guidance:
<http://www.nab.usace.army.mil/Wetlands%20Permits/publications.html>.

c. **Other Federally Authorized Civil Work Projects (e.g., flood control, dams, and reservoirs):** The MDSPGP-4 does not authorize interference with any proposed or existing Federally authorized civil works project.

8. **Federal Liability:** In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes;
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest;
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
- d. Design or construction deficiencies associated with the permitted work; and
- e. Damage claims associated with any future modification, suspension or revocation of the MDSPGP-4 or any specific MDSPGP-4 verification.

9. **Navigation:** Projects authorized under the MDSPGP-4 shall not cause interference with navigation, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to projects authorized under the MDSPGP-4. Nothing in the MDSPGP-4 shall in any way restrict the District Engineer, U.S. Army Engineer District, Baltimore, from exercising his legal authority to protect the public interest in navigation or from exercising his authority under the Navigation Servitude of the United States. (See VII.B.8.)

10. **Fills Within 100-Year Floodplain:** The activity must comply with applicable Federal Emergency Management Agency approved State or local floodplain management requirements.

11. **Safety of Impoundment Structures:** To ensure that all impoundment structures are safely designed, the Corps may require non-Federal applicants to demonstrate that the structures comply with established State dam safety criteria or have been designed by qualified persons. The Corps may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

B. Minimization of Environmental Impacts:

1. **Avoidance and Minimization:** Discharges of dredged or fill material into waters of the United States and adverse impacts of such discharges on the aquatic ecosystem shall be avoided and minimized to the maximum extent practicable at the project site (i.e., on-site).

2. **Mitigation Standards:** A proposed compensatory mitigation proposal may be submitted with the application to expedite the process. The Corps will determine if the project is eligible for authorization under the MDSPGP-4 subject to the applicant's submittal of a compensatory mitigation proposal for stream and wetland impacts. Compensatory mitigation plans will generally include a requirement for the establishment, performance, maintenance, legal protection (e.g., conservation easements), and long-term management of the mitigation area. Applicants may propose the use of mitigation banks, in-lieu-fee programs, or separate permittee-responsible mitigation. In general, maintenance of previously authorized activities typically does not require mitigation. All mitigation must be in compliance with the 2008 Mitigation Rule (73 FR 70).

a. Wetland mitigation will generally be required for all permanent tidal or nontidal wetland losses either through the use of the State's tidal or nontidal programmatic wetland compensation, mitigation banks, in-lieu-fee programs, and/or by the permittee as required by special condition of the MDSPGP-4 or the State authorization. Generally, the minimum required wetland mitigation ratios will be as follows: 2:1 for forested and scrub-shrub wetlands; 1:1 for herbaceous emergent wetlands, and 1:1 for permanent conversion of forested wetlands to herbaceous emergent wetlands. Wetland mitigation can include wetland restoration, establishment, enhancement (including restoration or enhancement of upland forested buffers), and/or wetland preservation, unless the Corps determines in writing that some other form of mitigation would be more appropriate and provides a project-specific waiver of this requirement. Since the likelihood of success is greater and the impacts are reduced, wetland restoration should be the first compensatory mitigation option considered.

b. Stream mitigation, focusing on functional replacement, will generally be required for any project that involves losses of more than 200 linear feet to stream channels and rivers through the use of mitigation banks, in-lieu-fee programs, or by the permittee as required by special condition of the MDSPGP-4 and/or the State authorization. Stream mitigation can include stream restoration, establishment, enhancement (including enhancement of riparian buffers), and stream preservation. Riparian buffer areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat impact concerns. The need to require mitigation for impacts to open waters will be determined on a case-by-case basis.

c. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu-fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee.

d. For permittee-responsible mitigation, the special conditions of the MDSPGP-4 verification must clearly indicate the party or parties responsible for the implementation, performance, and long-term management of the compensatory mitigation project.

3. **Work in Wetlands:** Heavy equipment working in wetlands shall be avoided if possible and, if required, soil and vegetation disturbance shall be minimized by using techniques such as timber mats, geotextile fabric, and vehicles with low-pressure tires. Disturbed areas in wetlands shall be restored to preconstruction contours and elevations upon completion of the work.

4. **Temporary Fill and Mats:** Temporary fill and the use of mats are both considered a discharge of fill material and must be included in the quantification of impact area authorized by the MDSPGP-4. Temporary fill (e.g., access roads, cofferdams) in waters and wetlands authorized by the MDSPGP-4 shall be properly stabilized during use to prevent erosion. Temporary fill in wetlands shall be placed on geotextile fabric laid on the existing wetland grade. Upon completion of the work, all temporary fills shall be disposed of at an upland site, suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas shall be restored to their original, pre-construction contours and revegetated with native wetland species.

5. **Erosion and Sediment Control:** Adequate erosion and sediment control measures, practices, and devices, such as turbidity curtains in tidal waters, vegetated filter strips, geotextile silt fences, phased construction, or other devices or methods, shall be used to reduce erosion and retain sediment on-site during and after construction. These devices and methods shall be capable of (a) preventing erosion, (b) collecting sediment and suspended and floating materials, and (c) filtering fine sediment. Erosion and sediment control devices shall be removed when the work is complete and the site has been successfully stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date. In-stream work shall be conducted "in the dry" whenever practicable. This should be accomplished using stream diversion devices, other than earthen or stone cofferdams. In addition, work in waters of the United States should be performed during periods of low-flow or no-flow, whenever practicable.

6. **Aquatic Life Movements:** No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through, or spawn/nursery within the area (e.g., anadromous/catadromous fish); unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. A low flow channel must be maintained through any discharges placed for armoring across the channel so as to not impede flow in the waterway and/or not to block or impede the movements of anadromous, estuarine, and resident fish. Permanent culvert or pipes placed in streams must be depressed in accordance with the State of Maryland regulations. If depression of the culvert is not practicable, the applicant must submit a narrative, along with their application, documenting measures evaluated to minimize disruption of the movement of aquatic life, as well as specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipe/culvert. Options that need to be considered include the use of a bridge, bottomless pipe, partial depression, or other measures to provide for the movement of aquatic organisms. The documentation must also include photographs documenting site conditions. The applicant may find it helpful to contact their regional fishery agency for recommendations about the measures to be taken to allow for fish passage

7. Water Crossings:

a. All temporary and permanent crossings of waterbodies shall be suitably bridged, culverted, or otherwise constructed to withstand and to prevent the restriction of high flows and tidal flows; to maintain existing low flows; and to prevent the obstruction of movement by aquatic life indigenous to the water body, including anadromous, estuarine, and resident fish species.

b. All water crossings (e.g., utility lines and road crossings) must be constructed roughly perpendicular to waters of the United States, including streams and wetlands. Where a utility line or access road is constructed parallel to a stream corridor, an undisturbed buffer shall be maintained between the utility line/access road and the waterway to avoid or minimize potential future impacts to waters of the United States. These potential impacts would include such issues as sewer line leaks or failures, future stream channel meandering, stream bank instability and failure, and right-of-way maintenance.

c. Water crossings must be constructed "in the dry" whenever practicable. This should be accomplished by using stream diversion devices other than earthen or stone cofferdams.

d. Equipment shall cross streams only at suitably constructed permanent or temporary crossings.

e. Temporary structures and fills shall be removed and the area restored to its original contours and elevations, or to the conditions specified in the approved plans. The temporary structures and the areas of fill associated with these structures must be included in the total waterway/wetlands impacts.

8. **Discharge of Pollutants:** All activities that are authorized under the MDSPGP-4 and that involve any discharge or relocation of pollutants into waters of the United States shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. 1251 et. Seq.), and applicable State and local laws and regulations. No discharge of dredged or fill material in association with this authorization may consist of unsuitable material such as trash, debris, car bodies, asphalt, etc.

9. **Spawning Areas:** Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill materials in fish and shellfish spawning or nursery areas during spawning seasons, shall be avoided. Impacts to these areas shall be avoided or minimized to the maximum extent practicable during all other times of year. Activities that result in the physical destruction (e.g., through excavation, dredging, mining, fill, or significant downstream sedimentation by substantial turbidity) of an important spawning/nursery area are not authorized by this MDSPGP-4.

10. **Waterfowl Breeding and Wintering Areas:** Discharges into breeding and wintering areas for migratory waterfowl shall be avoided to the maximum extent practicable.

11. **Environmental Values:** The permittee shall make every reasonable effort to construct or operate the work authorized under the MDSPGP-4 in a manner that maintains as many environmental values as practicable, and that avoids or minimizes any adverse impacts on existing fish, wildlife, and natural environmental values.

12. **Management of Water Flows:** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

13. **Water Supply Intakes:** No discharge of dredged or fill material may occur in the proximity of a public water supply intake.

D. Procedural Conditions:

1. **Inspections:** The permittee shall permit the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary to ensure that the work is being performed in accordance with the terms and conditions of the MDSPGP-4. The District Engineer may also require post-construction engineering drawings (as-built plans) for completed work, and post-dredging survey drawings for any dredging work.

2. **Compliance Certification:** Every permittee who receives a written MDSPGP-4 verification shall submit a signed Compliance Certification Form within 60 days following completion of the authorized work and any required mitigation (but not mitigation monitoring, which requires separate submittals). Failure to submit the Compliance Certification Form by the permittee could result in the Corps taking appropriate non-compliance enforcement action against the permit holder. The Corps will provide a blank copy of the Compliance Certification Form to the permittee with the MDSPGP-4 verification. The completed form will include the following:

a. A statement that the authorized work either was or was not done in accordance with the MDSPGP-4 verification, including any general and/or specific conditions. If the activity was not done in accordance with the MDSPGP-4 verification, including any general and/or specific conditions and requirements, the permittee shall describe the specifics of the deviation from the authorized activity.

b. A statement that any required mitigation was or was not completed in accordance with the permit conditions. If the mitigation was not completed in accordance with the permit conditions, the permittee shall describe the specifics of the deviation from the permit conditions.

c. The signature of the permittee, certifying the completion of the work and compensatory mitigation.

After the project is completed, the certification shall be sent to the Baltimore District at the following address:

**U. S. Army Corps of Engineers
Baltimore District
Attn: CENAB-OP-R
P. O. Box 1715
Baltimore, Maryland 21203-1715**

3. **Transfer of MDSPGP-4 Verifications:** If the permittee sells the property associated with a MDSPGP-4 verification, the permittee may transfer the MDSPGP-4 verification to the new owner by submitting a letter to the Baltimore District Corps of Engineers office to validate the transfer. A copy of the MDSPGP-4 verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this MDSPGP-4 are still in existence at the time the property is transferred, the terms and conditions of this MDSPGP-4, including special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this MDSPGP-4 permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

4. **Maintenance:** The permittee shall properly maintain the work or structure authorized by the MDSPGP-4 in good condition and in compliance with the terms and conditions of the MDSPGP-4, including maintenance to ensure public safety.

5. **Property Rights:** The MDSPGP-4 does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.

6. **Modification, Suspension and Revocation:** The MDSPGP-4, or any verification under it, may be either modified, suspended, or revoked, in whole or in part, pursuant to DA policies and procedures and any such action shall not be the basis for any claim for damages against the United States.

7. **Restoration:** The permittee, upon receipt of a notice of revocation of authorization under the MDSPGP-4, shall restore the wetland or waterway to its former condition, without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.

8. **Special Conditions:** The Corps may impose special conditions on any project authorized under the MDSPGP-4, in cases where the Corps determines that special conditions are necessary to avoid or minimize adverse effects on the environment or on any other factor of the public interest. Failure to comply with all conditions of the authorization/ verification, including special conditions, will constitute a permit violation/unauthorized work and may subject the permittee to criminal, civil, or administrative penalties, and/or restoration.

9. **False or Incomplete Information:** In granting authorization pursuant to this permit, the Baltimore District will rely upon information and data provided by the permittee. If the project is verified by the Corps or MDE under the MDSPGP-4 and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the MDSPGP-4 verification may be revoked, in whole or in part, and/or the United States may institute appropriate legal proceedings.

10. **Compliance:** Any activity performed in waters of the United States, including wetlands and navigable waters, that is not in compliance with all the terms and conditions of the MDSPGP-4, which includes the MDSPGP-4 authorized activity activity-specific requirements, constitutes unauthorized work and is subject to an enforcement action by the Corps or the EPA. Furthermore, the MDSPGP-4 does not delegate any Section 404 enforcement or regulatory authority. Unauthorized work in waters of the United States, including wetlands and navigable waters, is subject to one or more of the following responses by EPA and/or the Corps:

- a. A Cease and Desist order and/or an administrative compliance order requiring remedial action.
- b. Initiation and assessment of a Class I administrative penalty order pursuant to Section 309(g) of the CWA.
- c. Initiation and assessment of a Class II administrative penalty for continuing violation pursuant to Section 309(g) of the CWA.
- d. Referral of the case to the U. S. Attorney with a recommendation for a civil or criminal action.
- e. If the Corps determines that an after-the-fact application is appropriate, it will be reviewed following the appropriate procedures.
- f. Any other appropriate response.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

Operations Division

MDSPGP-4 PERMIT COMPLIANCE CERTIFICATION FORM (10/1/11)

Corps Permit Tracking No. _____ Category & Activity Number _____

Project Name _____ Applicant Name _____

Waterway _____ County _____

Dear Permittee:

In accordance with the compliance certification condition of your MDSPGP-4 authorization, you are required upon completion of all permitted work, or if mitigation/compensation is required, within 60 days following completion of the authorized work and any required mitigation (but not the mitigation monitoring, which requires separate submittals), to complete and sign this certification form and return it to the Corps of Engineers, Baltimore District, ATTN: CENAB-OP-R, P.O. Box 1715, Baltimore, Maryland 21203-1715.

Please note that the permitted activity is subject to compliance inspections by U.S. Army Corps of Engineers representatives. As a condition of this permit, failure to return this notification form, provide the required information below, or to perform the authorized work in compliance with the permit, can result in suspension, modification or revocation of your authorization in accordance with 33 CFR Part 325.7 and/or administrative, civil, and/or criminal penalties, in accordance with 33 CFR part 326.

Please provide the following information:

1. Date authorized work commenced: _____ 2. Date authorized work completed: _____

3. Was all work and any required mitigation, completed in accordance with your MDSPGP-4 authorization, including all general and/or specific conditions? YES ___ NO ___

4. For Category A projects involving pile driving activities that are within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels less than 6 parts per thousand (See Appendix B of the MDSPGP-4), please indicate the pile driving method that was used for the authorized work:

- ____ (a) Piles must be installed in-the-dry during low water;
- ____ (b) Piles must be drilled and pinned to ledge;
- ____ (c) Vibratory hammers must be used to install any size and quantity of wood, concrete, or steel pilings;
- ____ (d) Impact hammers must be limited to one hammer and <50 piles installed per day with the following: wood piles of any size; concrete piles <18-inches diameter; steel piles <12-inch diameter if the hammer is <3,000 pounds and a wood cushion is used between the hammer and steel pile;
- ____ (e) Approved pile driving methods that will allow noise level thresholds to be met.
Describe: _____

5. Explain in detail any deviations to the authorized work and/or mitigation (use additional sheets if necessary)

6. Was mitigation accomplished through a contribution to the Maryland Nontidal Wetlands Compensation Fund?
YES _____ NO _____ (if NO, please complete Nos. 6 and 7 below).

7. Wetland Mitigation: Required? YES _____ NO _____ Required Completion Date _____
Wetland Mitigation Completed? YES _____ NO _____ Mitigation Monitoring Reports Required? YES _____ NO _____

8. Please attach labeled photographs showing completed work including mitigation area(s).

I hereby certify that, except as noted above, that all work, including mitigation, has been completed in accordance with the terms and conditions, including special conditions of the above referenced permit.

Signature of Permittee Date

Address: _____

Telephone: _____

Signature of Contractor/Agent Date

Address: _____

Telephone: _____

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION
LETTER OF AUTHORIZATION

AUTHORIZATION NUMBER: 13-NT-2091/201361507
EFFECTIVE DATE: October 29, 2013
EXPIRATION DATE: October 29, 2016
AUTHORIZED PERSON: Maryland Transit Administration
6 Saint Paul St
Baltimore, Maryland 21202
Attn: Wane-Jang Lin



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 OF AUTHORIZATIONS, Maryland Transit Administration (AUTHORIZED PERSON"), IS HEREBY AUTHORIZED BY THE WATER MANAGEMENT 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 October 29, 2013 ("APPROVED PLAN") AND PREPARED BY Wallace Montgomery AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

To conduct maintenance and repair to MTA culvert(s) structure no. 8.27 utilizing stream diversion, sandbags/stone barriers during all phases of work. This authorized activity requiring the removal of vegetation shall temporarily disturb approximately 130 square feet of emergent nontidal wetlands, 1,297 square feet of regulated nontidal wetlands buffer and 76 linear feet of stream channel. No in-stream work shall be conducted from March 1 thru June 15 of any year. Project is located in Kennedyville, Kent County, Maryland.

MD Grid Coordinates: 182602 x 488332

A handwritten signature in black ink, appearing to read "Amanda Sigillito".

Amanda Sigillito
Division Chief
Nontidal Wetlands Division

Attachments: Conditions of Authorization

cc: Harry Hunsicker – MDE Compliance Division w/file
Kelly Flint – MDE Waterway Construction Division
Marla Duley – Wallace Montgomery, Inc.

Received
Maryland Transit Administration

NOV - 1 2013

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Office of Engineering
Track & Structural Preservation Engineering

THE FOLLOWING CONDITIONS OF AUTHORIZATION APPLY TO ALL ACTIVITIES AUTHORIZED BY
AUTHORIZATION NUMBER 13-NT-2091/201361507

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1. **Validity:** Authorization is valid only for use by Authorized Person. Authorization 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 Authorization.
2. **Initiation of Work, Modifications and Extension of Term:** Authorized Person shall initiate authorized activities with two (2) years of the Effective Date of this Authorization or the Authorization shall expire. Authorized Person may submit written requests to the Administration for (a) extension of the period for initiation of work, (b) modification of Authorization, including the Approved Plan, or, (c) not later than 45 days prior to Expiration Date, an extension of the 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.
3. **Responsibility and Compliance:** Authorized Person is fully responsible for all work performed and activities authorized by this Authorization shall be performed in compliance with this Authorization and Approved Plan. Authorized Person agrees that a copy of the Authorization and Approved Plan shall be kept at the construction site and provided to its employees, agents and contractors. A person (including Authorized Person, its employees; agents or contractors) who violates or fails to comply with the terms and conditions of this Authorization, 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 Authorized Person, its employees, agents or contractors fail to comply with this Authorization or Approved Plan, the Administration may, in its discretion, issue an administrative order requiring Authorized Person, its employees, agents and contractors to cease and desist any activities which violate this Authorization, or the Administration may take any other enforcement action available to it by law, including filing civil or criminal charges.
5. **Suspension or Revocation:** Authorization may be suspended or revoked by the Administration, after notice of opportunity for a hearing, if Authorized Person: (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 Authorization; (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 Authorization and new information, changes in site conditions, or amended regulatory requirements necessitate revocation or suspension.
6. **Other Approvals:** Authorization 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:** Authorized Person 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. Authorized Person shall provide necessary assistance to effectively and safely conduct such inspections and evaluations.
8. **Inspection Notification:** Authorized Person 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, Authorized Person shall call 301-689-1480. For Carroll, Frederick, Howard, Montgomery and Prince George's Counties, Authorized Person shall call 301-665-2850. For Baltimore City, Anne Arundel, Baltimore, Calvert, Charles, and St. Mary's Counties, Authorized Person shall call 410-537-3510. For Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, Somerset, Talbot, Wicomico and Worcester Counties, Authorized Person shall call 410-901-4020. If Authorization is for a project that is part of a mining site, please contact the Land Management 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:** Authorized Person shall obtain approval from the Kent Soil Conservation District 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. **Federally Mandated State Authorizations:**
 - Water Quality Certification:** Water Quality Certification is granted for this project provided that all work is performed in accordance with the authorized project description and associated conditions.
 - Coastal Zone Consistency:** This Authorization constitutes official notification that authorized activities are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the Federal Coastal Zone Management Act of 1972, as amended. Activities within the following counties are not subject to this requirement: Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington.

THE FOLLOWING CONDITIONS OF AUTHORIZATION APPLY TO ALL ACTIVITIES AUTHORIZED BY
AUTHORIZATION NUMBER 13-NT-2091/201361507

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11. **Best Management Practices During Construction:** Authorized Person, its employees, agents and contractors shall conduct authorized activities in a manner consistent with the Best Management Practices specified by the Administration.
12. **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.
13. **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.
14. **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, Authorized Person, 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.
15. **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.
16. **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): Morgan Creek is a Use I waterway; in-stream work may not be conducted from March 1 through June 15 inclusive, of any year.
17. **Instream Blasting:** Authorized Person shall obtain prior written approval from the Administration before blasting or using explosives in the stream channel.
18. **Minimum Disturbance:** Any disturbance of stream banks, channel bottom, wetlands, and wetlands buffer authorized by this Authorization 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.
19. **Restoration of Construction Site:** Authorized Person 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 Authorized Person as directed by the Administration.
20. **Mitigation:** Authorized Person shall mitigate for the loss of <N/A> by creating the equivalent of at least <N/A>, 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. A Phase II Mitigation Plan shall be submitted to the Section no later than 90 days after the issuance of this Letter of Authorization, unless an extension has been granted in writing by the Section. The Phase II Mitigation Plan must be approved by the Section, through the Phase II Mitigation Plan Approval Letter and its associated exhibits ("Approval Letter"), prior to commencing the impacts authorized in this Authorization. The Authorized Person shall successfully construct the mitigation site 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 Authorization. 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 Authorized Person is required to notify the Section upon the start of grading and the completion of planting of the mitigation project. The Authorized Person shall submit monitoring reports for the mitigation project to the Section as specified in the Approval Letter. If the Authorized Person as stated in the Authorization, changes, the Authorized Person must notify the Section. If the mitigation obligation is to be transferred to another party, the Authorized Person must notify the Section

U.S. ARMY CORPS OF ENGINEERS AUTHORIZATION

The U.S. Army Corps of Engineers has reviewed this activity and has granted authorization under the Maryland State Programmatic General Permit (MDSPGP-4), as a Category A activity. The terms and conditions of the MDSPGP-4, as outlined in the enclosed attachment, should be followed when performing the authorized work.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

201361507/13-NT-2091
Corps Permit Tracking Number

MDSPGP-4
CATEGORY A, ACTIVITY (A-b(1))
General Maintenance

The projects, structures and activities, listed below, must comply with all activity-specific conditions, in addition to all of the general conditions of this general permit.

This activity authorizes discharges of dredged or fill material for the repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill. This activity authorizes minor deviations in the configuration of the structure or filled area, including changes in materials, construction techniques, current construction codes, or safety standards that are necessary to make the repair, rehabilitation, or replacement, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modification must be immediately adjacent to the project. Currently serviceable means that the structure or fill is usable in its current condition, or with some maintenance, but not so degraded as to essentially require reconstruction. This activity also authorizes the removal of accumulated sediments and debris in the vicinity of, and within, existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.). This activity also authorizes repair, rehabilitation, or replacement in-kind of structures destroyed by storms, floods, fire or other discrete events. This activity authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Section 404(f) exemption for maintenance (Sections 10 and 404; all waters of the United States).

Impact Limits and Requirements:

- i. No application is required for Corps authorization except for replacement of previously authorized, currently serviceable structures, located along a Federally authorized navigation channel, that are destroyed by an act of nature or other sudden event, or for modification of previously authorized, currently serviceable structures located along Federally authorized navigation channels. In these cases, an application is required to be submitted to the Corps for review under Category B or alternate Corps permit review procedures, as appropriate.
- ii. The total temporary (i.e., construction impacts including stream diversion devices) and permanent impacts to waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open waters, are not to exceed 10,000 square feet and/or 500 linear feet of streams, rivers, and other open waters.
- iii. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend any further than 200 linear feet in any direction from the structure.
- iv. Any impact to waters of the United States, including wetlands, associated with this activity is to be minimized below these impact limits to the greatest extent possible.
- v. The following conditions are applicable to Coastal Plain streams, and Harford and Cecil County Piedmont streams:
 - (1) Permanent culvert pipes that are greater than 24 inches in diameter and bridge/arch footers must be countersunk a minimum of 12 inches below the natural stream invert.

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CATEGORY A, ACTIVITY (A-b(1))

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- (2) Permanent culvert pipes and bridge/arch footers placed in streams on bedrock or over buried utility lines are exempt from these countersinking (i.e., depressing) requirements and must be constructed in accordance with the State of Maryland regulations. Permanent culvert pipes and bridge/arch footers placed in streams on bedrock or over buried utility lines are eligible for Category A review with specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipes/culvert.
- (3) All permanent culvert pipes greater than 24 inches in diameter and bridge/arch footers (except those placed in streams on bedrock or over buried utility lines) that cannot be countersunk in accordance with condition (1) above are not eligible for Category A and must be reviewed under Category B or alternate Corps permit review procedures, as appropriate.

Requirements Applicable to Both Category A and Category B Activities:

- i. An application is required to be submitted to the Corps for review under Category B for authorization of previously authorized, currently serviceable structures located along Federally authorized navigation channels that are destroyed by an act of nature or other sudden event or that are proposed to be modified.
- ii. The repair, rehabilitation, or replacement activity is limited to the original dimensions or configuration, except for minor deviations due to changes in materials, construction techniques, or current construction codes or safety standards. Minor deviations in the configuration of the structure or filled area must not exceed the minimum necessary to make the repair, rehabilitation, or replacement.
- iii. Repair, rehabilitation, or replacement of an existing serviceable structure should not result in the displacement of in-stream habitats or features important to anadromous, estuarine, and resident fish, such as plunge or scour pools. Work under this activity must not impede flow in the waterway and/or must not block or impede the movements of anadromous and resident fish.
- iv. Culverts must be adequately sized to allow for the passage of ordinary high water with the depression and invert restrictions taken into account.
- v. Extensions of existing pipes or culverts that are not depressed below the stream invert are exempt from the requirement to depress the culvert.
- vi. This activity does not authorize access roads. Access roads are authorized under IV.B.1.e.(7) Temporary Construction Access, Stream Diversion, and Dewatering.
- vii. The structure or fill must not be put to uses differing from those uses specified or contemplated for it in the original permit or the most recent authorized modification.
- viii. Repair, rehabilitation, or replacement of previously authorized, currently serviceable structures or fills destroyed or damaged by storms, floods, fire, or other discrete events must be started or under contract to start within 2 years of the date that they were damaged or destroyed.
- ix. Maintenance of existing stormwater management facilities must be performed in accordance with any maintenance plan to restore to the design as originally approved and constructed, which includes limiting excavation to the original contours.
- x. This activity does not authorize the discharge of dredged or fill material for the purpose of reclaiming land lost through gradual erosion processes.

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CATEGORY A, ACTIVITY (A-b(1))

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- xi. This activity does not authorize any maintenance dredging, beach restoration, stream restoration, stream relocation, or channelization, and/or repair or replacement of bulkheads.**
- xii. This activity does not authorize blasting or other forms of uncontained in-water demolition.**
- xiii. All excavated materials must be deposited and retained in an upland (non-wetland) area.**



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1716
BALTIMORE, MD 21203-1716

IMPORTANT INFORMATION ABOUT YOUR PROJECT

Corps Permit Tracking No.: 201361507/13-NT-2091 Date: October 29, 2013

Permittee/Project Name: MTA 8.27 Rail Line MDSPGP-4 Category and Activity No.: AB-1

Dear Applicant:

The U. S. Army Corps of Engineers, Baltimore District, has determined that the proposed work meets the enclosed terms and conditions of the Maryland State Programmatic General Permit-4 (MDSPGP-4). A requisite of permit issuance requires that the applicant comply with any specific terms and conditions associated with the authorized project (conditions enclosed). This MDSPGP-4 verification is provided pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. If any of the information contained in your application and/or plans is later found to be in error, the MDSPGP-4 authorization for your project may be modified, suspended, or revoked.

As a condition of the MDSPGP-4 authorization, you, the permittee, are required to complete and sign the enclosed Compliance Self-Certification Form regarding the completed work and any required mitigation. The signed form should be returned to the Regulatory Branch at the above address within 60 days following completion of the authorized work and any required mitigation.

Please be aware that the terms and conditions of this permit will continue to be binding on the new property owner(s) if structures or work authorized by this permit exist at the time of ownership transfer of the associated property. Although the construction period for work authorized by this MDSPGP-4 is finite, the permit itself, with its limitations, does not expire. To validate the transfer of this permit and the legal responsibility to comply with its terms and conditions, the transferee (new owner) must provide the Corps a mailing address and telephone number along with their signature and date in the space provided below and mail a copy to the above address.

Your MDSPGP-4 authorization is valid until September 30, 2016 unless the permit is modified, reissued, or revoked. You must remain informed of the changes to the MDSPGP-4. When changes to the MDSPGP-4 occur, a public notice announcing the changes will be issued. Be advised that you have 12 months from the effective date of the MDSPGP-4's expiration, modification or revocation to complete the work under the present terms and conditions provided you have commenced construction or are under contract to commence construction of the authorized work.

In order for this authorization to be valid, you must obtain all required Federal, State, and local permits.

William P. Seib

William P. Seib
Chief, Regulatory Branch

TRANSFEREE SIGNATURE

DATE

AREA CODE / TELEPHONE NO.

PRINTED NAME

ADDRESS



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

REPLY TO
ATTENTION OF

Effective October 1, 2011

201361507/13-NT-2091
Corps Permit Number

CENAB-OP-R-MDSPGP-4 (MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-4)

TO WHOM IT MAY CONCERN:

Upon the recommendation of the Chief of Engineers, and under the provisions of Section 404 of the Clean Water Act, as amended, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Secretary of the Army hereby authorizes the discharge of dredged or fill material or the placement of structures into Waters of the United States, including wetlands and navigable waters. These discharges and structures must comply with all the terms and conditions identified in this MDSPGP-4. It has been determined that the project qualifies for the MDSPGP-4. Accordingly, you are authorized to undertake the activity pursuant to:

1. Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403); and/or
2. Section 404 of the Clean Water Act (33 U.S.C. 1344).

You are authorized to perform work in accordance with the terms and conditions specified in Section VII of the MDSPGP-4 effective on October 1, 2011.

VII. General Conditions: To qualify for MDSPGP-4 authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any activity-specific conditions in the MDSPGP-4 category list and any case-specific special conditions imposed by the Corps.

A. General Requirements:

1. **Other Permits:** Authorization under the MDSPGP-4 does not obviate the need to obtain other Federal, State, or local authorizations required by law.
2. **Geographic Jurisdiction:** This MDSPGP-4 will authorize work undertaken within the geographic limits of the State of Maryland under the regulatory jurisdiction of the Baltimore District.
3. **Applicability:** Applicability of the MDSPGP-4 shall be reviewed with reference to the Corps definition of waters of the United States, including wetlands, and navigable waters of the United States. Applicants are responsible for delineating boundaries of all waters of the United States, including wetland boundaries. The delineation of wetland boundaries shall be accomplished in accordance with the current Federal manual for identifying jurisdictional wetlands and appropriate guidance issued by the Corps of Engineers.
4. **Minimal Effects:** Projects authorized by the MDSPGP-4 shall have no more than minimal individual and cumulative adverse environmental effects.
5. **Discretionary Authority:** Notwithstanding compliance with the terms and conditions of the MDSPGP-4, the Corps retains discretionary authority to require an alternate Corps permit review for any project under all categories of the MDSPGP-4 based on concerns for the aquatic environment or for any other factor of the public interest. This authority may be invoked on a case-by-case basis during the review process for Category B activities whenever the Corps determines that, based on the concerns stated above, the potential consequences of the proposed project warrant individual review. In some rare instances, the Corps may have concerns for the aquatic environment or for any other public interest factor pertaining to a specific proposed project, which has already received a case-specific verification as a Category A activity. In order to evaluate this project under an alternate Corps permit review, the verification must be suspended in accordance with Section VIII.E of the MDSPGP-4.

Whenever the Corps notifies an applicant that an alternate Corps permit may be required, authorization under the MDSPGP-4 is voided. No work may be conducted until the individual Corps permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under the MDSPGP-4.

6. Single and Complete Projects: The MDSPGP-4 shall not be used for piecemeal work and shall be applied to single and complete projects, including maintenance activities. For purposes of this MDSPGP-4, a single and complete project means the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers and which has independent utility. All components of a project, including all attendant features both temporary and permanent, shall be reviewed together as constituting one single and complete project. All planned phases of multi-phased projects (e.g., subdivisions should include all work such as roads, utilities, and lot development) shall be applied for and reviewed together as constituting one single and complete project. The MDSPGP-4 shall not be used for any activity or portion of a project (e.g., a pier or boat ramp), that is part of, or dependent on, an overall project (e.g., the dredging of a main navigation channel or a spur channel), for which an individual permit or some other alternate Corps permit is required.

7. Use of Multiple MDSPGP-4 Activities: More than one MDSPGP-4 activity may be used to authorize a single and complete project. However, the specific requirements, including all activity-specific requirements and impact thresholds, must be met for each MDSPGP-4 activity and the total extent of project impacts must not exceed the acreage and/or linear foot limit of the MDSPGP-4 activity with the highest specified acreage and/or linear foot limit. For example, if a road crossing is authorized under Category A of Section IV.B.1.(d)(1) with an associated nontidal bank stabilization authorized under Section IV.B.1.f.(4)(a), the maximum total impact limits to nontidal waters of the United States for the single and complete project may not exceed 10,000 square feet in total area and/or 500 linear feet in total length. The road crossing and nontidal bank stabilization activities must still meet all Category A activity-specific requirements and impact thresholds.

A single and complete project with multiple impacts, that may be eligible for authorization under a Category A and a Category B activity, requires an application submittal to the Corps and review under the MDSPGP-4 Category B verification procedures. All specific requirements, including the activity-specific requirements and impact thresholds of the Category A activity and the Category B activity must be met and the total extent of project impacts must not exceed to total acreage and/or linear foot limit of the MDSPGP-4 activity with the highest specified acreage and/or linear foot limit. For example, if a road crossing is authorized under Category A of Section IV.B.1.(d)(1) with an associated nontidal bank stabilization authorized under Section IV.B.f.(4)(b), the maximum total impact limits to waters of the United States for the single and complete project may not exceed 1/2 acre (21,780 square feet) in total area and/or 2,000 linear feet in total length. The road crossing activity must meet the Category A activity-specific requirements and impact thresholds, and the nontidal bank stabilization activity must meet the Category B activity-specific requirements and impact thresholds.

8. Permit On-Site: The permittee shall ensure that a copy of the MDSPGP-4 and the accompanying authorization letter are at the work site at all times. These copies must be made available to any regulatory representative upon request. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be expected to comply with all conditions of any general permit authorization.

9. Authorized Activities in Navigable Waters Subject to Section 10 of the Rivers and Harbors Act of 1899:

a. If future operations by the United States require removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable water, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

b. The permittee acknowledges the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels and/or ice flows within the waterway. The issuance of this permit does not relieve the permittee from taking all proper steps to ensure the integrity of the structure permitted herein and the safety of vessels moored thereto from damage by wave wash and/or ice flows, and the permittee shall not hold the United States liable for such damage.

c. The permittee must install and maintain, at his/her expense any safety lights, markers, and/or signals prescribed by the USCG, through regulations or otherwise, on the authorized facilities and/or structures. The permittee must contact the Commander (AOWW), Fifth Coast Guard District, Federal Building, 431 Crawford

Street, Portsmouth, Virginia, 23704, to ascertain the need for obstruction lights. Prior to commencing the construction or installation of an authorized structure in navigable waters of the United States, the permittee must submit a "Private Aids to Navigation Application" to the Commander of the USCG.

d. The permittee must provide location coordinates of the authorized structures, including minimum depth and other pertinent information to the USCG and request that a Local Notice to Mariners is issued regarding the authorized work.

10. For Aerial Transmission Lines Across Navigable Waters: The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the USCG for new fixed bridges, in the vicinity of the proposed aerial transmission line. These clearances are based on the low point of the line under conditions producing the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code:

NOMINAL SYSTEM VOLTAGE (kV)	Minimum additional clearance (ft.) above clearance required for bridges.
115 and below	20
138	22
161	24
230	26
350	30
500	35
700	42
750-765	45

a. Clearances for communication lines, stream gauging cables, ferry cables, and other aerial crossings must be a minimum of ten feet above clearances required for bridges, unless specifically authorized otherwise by the District Engineer.

b. Corps Regulation ER 1110-2-4401 prescribes minimum vertical clearances for power communication lines over Corps lake projects. In instances where both the National Electrical Safety Code requirements and ER 1110-2-4401 apply, the greater minimum clearance is required.

A. National Concern:

1. **Historic Properties:** Any activity authorized by the MDSPGP-4 shall comply with Section 106 of the National Historic Preservation Act. Maryland Department of the Environment, in cooperation with the Maryland Historic Preservation Office, shall conduct an initial review and notify the Corps if any archaeological or other cultural resources are in the vicinity of the project. The Corps may require applicants to perform a survey of archaeological and historical resources in the project area. The Corps shall determine whether National Historic Preservation Act Section 106 consultation is required. The applicant must notify the Corps if they have knowledge that the activity may affect any historic properties listed or eligible for listing, or that the applicant has reason to believe may be eligible for listing on the National Register of Historic Places. If the permittee discovers any previously unknown archaeological or other cultural resource while accomplishing the work authorized by the MDSPGP-4, the permittee shall immediately notify the Corps of what has been found and stop work in the permit area until the required coordination has been completed. The permittee shall not begin or continue work until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied

and that the activity may proceed. Information on the location and existence of historical resources can be obtained from the MHT, Office of Preservation Services, and the National Register of Historic Places.

2. **Tribal Rights:** No activity or its operation may impair reserved tribal rights, including but not limited to, reserved water rights and treaty fishing and hunting rights.

3. **National Lands:** Activities authorized by the MDSPGP-4 shall not impinge upon the value of any Federal land, including but not limited to, National Wildlife Refuges, National Forests, National Parks, National Marine Sanctuaries, or any area administered by the FWS, U.S. Forest Service, or National Park Service (e.g., Assateague Island National Seashore).

4. **Endangered Species:** The MDSPGP-4 does not authorize any activity that may directly or indirectly affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal ESA; or which may directly or indirectly destroy or adversely modify the critical habitat of such species unless and until appropriate coordination with the applicable resource agency(s) is complete and all such issues are resolved in accordance with the applicable regulations and procedures. MDE, in cooperation with MD DNR, shall conduct an initial review and notify the Corps and FWS or NMFS if any Federally listed species or critical habitat is likely to be in the vicinity of the project. The Corps shall determine if consultation with FWS or NMFS is required under Section 7 of the ESA. If consultation is required, the applicant, after notification, shall not begin or continue work until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is eligible for authorization. Information on the location of threatened and endangered species and their critical habitat can be obtained from FWS and NMFS. The Corps will be initiating consultation under the Endangered Species Act on this MDSPGP-4 and any conditions from that consultation will be inserted into the MDSPGP-4.

National Marine Fisheries Service – Endangered Species Act Requirements:

a. **Interactions with National Marine Fisheries Service Federally Threatened or Endangered Species:** Any interaction between a sea turtle or any species listed now or in the future under Federal law as a threatened or endangered species (“listed species”) (e.g., North Atlantic right whale, humpback whale, shortnose sturgeon) and the vessels associated with the project must be reported to the NMFS as follows: If the animal appears alive and uninjured (i.e., breathing normally, no visible wounds, movement uninhibited), the permittee or its representative must report the incident to the NMFS Northeast Region Marine Mammal and Sea Turtle Stranding and Entanglement Hotline at (866) 755-6622 within 24 hours of returning from the trip on which they made the discovery. If the animal requires assistance, the call to the hotline must be made immediately. If the animal appears to be injured (i.e. bleeding, gasping for air, etc.) or dead, the permittee or its representative must also immediately call the hotline so the appropriate rehabilitation or stranding network representative can be contacted. The applicant shall also notify the Corps of all correspondence and interaction with the NMFS within two calendar days. Additional information about any Federally threatened or endangered species may be obtained from the attached fact sheet or online at: http://www.nero.noaa.gov/prot_res/stranding/SpeciesOverview.html and at: http://www.nero.noaa.gov/prot_res/esp/. An interaction is defined as an entanglement or capture of a listed species or a strike/direct contact between vessels or equipment used for the project and a listed species.

b. **Vessel Buffer:** When listed species are sighted, vessels must attempt to maintain a distance of 50 yards (150 feet) or greater between the animal and the vessel whenever possible. State and Federal regulations prohibit approaching a right whale within a 500 yard (1,500 foot) buffer zone. Any vessel finding itself within the 500 yard (1,500 foot) buffer zone created by a surfacing right whale must depart immediately at a safe, slow speed. If other listed species are detected, vessels will reduce their speeds to 10 knots or to the maximum extent practicable to ensure human safety. If listed species are sighted off of a moving dredge, intentional approaches within 100 yards (300 feet) of the animal must be avoided. Vessels must reduce speeds to 4 knots or the lowest speed practicable to ensure human safety. Any interactions must be reported to the NMFS.

c. **Best Management Practices Applicable to Category A Activities Within Tidal Waters Having Salinity Levels Less Than 6 Parts Per Thousand (ppt) (See Appendix B):**

(l) **Pile Driving:** For the protection of listed species within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels <6 ppt, pile driving methods must maintain noise level thresholds not to exceed 187dB SEL re 1µPa or 206dB peak re 1µPa at a distance of >10m from the pile being installed; and for levels >155dB peak re 1µPa must not exceed 12 consecutive hours on any given day and a 12 hour

recovery period (i.e., in-water noise levels below 155dB peak re 1µPa) must be provided between work days. Pile driving construction must adhere to one of the following methods: (a) piles must be installed in-the-dry during low water; or (b) piles must be drilled and pinned to ledge; or (c) vibratory hammers must be used to install any size and quantity of wood, concrete, or steel pilings; or (d) impact hammers must be limited to one hammer and <50 piles installed per day with the following: wood piles of any size; concrete piles <18-inches diameter; steel piles <12-inch diameter if the hammer is <3,000 pounds and a wood cushion is used between the hammer and steel pile; or (e) approved pile driving methods that will allow noise level thresholds to be met.

(ii) **Sediment Disturbing Activities Time-of-Year Restriction:** Sediment disturbing activities, which includes pile driving activities, are prohibited during the period April 1 through June 30 within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels <6 ppt for the protection of shortnose sturgeon and early life stages in these waters.

5. **Essential Fish Habitat (EFH) and Fish and Wildlife Coordination Act:** Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires an EFH consultation with the NMFS for any action or proposed action authorized, funded, or undertaken by a Federal agency that may adversely affect EFH. Essential Fish Habitat has been defined by Congress as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." The designation and conservation of EFH seeks to minimize adverse effects on habitat caused by fishing and non-fishing activities. NMFS has determined that many of the MDSPGP-4 Category A activities are eligible for EFH general or programmatic concurrence and require no further EFH consultation. National Marine Fisheries Service, in consultation with the District, has determined that individual EFH consultation is needed for some projects potentially eligible for authorization under Category A of the MDSPGP-4 that may adversely affect EFH. The Corps will coordinate with NMFS as part of the Category B review procedures. EFH conservation recommendations made by NMFS will normally be included as a permit requirement by the Corps. If the EFH coordination and consultation requirements cannot be resolved under the MDSPGP-4 process, an alternate Corps permit review process is required for the project. The Corps will be initiating consultation under these authorities on this MDSPGP-4, and any conditions from that consultation to protect NOAA trust resources will be inserted into this MDSPGP-4.

6. **Wild and Scenic Rivers:** No activity is authorized under the MDSPGP-4 that occurs in a component of the National Wild and Scenic River System, including rivers officially designated by Congress as study rivers for possible inclusion in the system, while such rivers are in an official study status, unless the appropriate Federal agency, with direct management responsibility for the river, has determined in writing that the proposed activity will not adversely affect any National Wild and Scenic River, including study rivers. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U. S. Forest Service, Bureau of Land Management, or FWS).

7. **Federally Authorized Civil Works Projects:**

a. **Federal Navigation Projects:** The MDSPGP-4 does not authorize interference with any existing or proposed Federal navigation projects. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration. (See VII.A.9.a.)

b. **Federal Navigation Channel Setbacks:** All activities must comply with the Baltimore District Minimum Setback Guidance for Structures Along Federally Authorized Channels. Please see the Baltimore District's Regulatory webpage to view this guidance:
<http://www.nab.usace.army.mil/Wetlands%20Permits/publications.htm>.

c. **Other Federally Authorized Civil Work Projects (e.g., flood control, dams, and reservoirs):** The MDSPGP-4 does not authorize interference with any proposed or existing Federally authorized civil works project.

8. **Federal Liability:** In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes;
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest;
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
- d. Design or construction deficiencies associated with the permitted work; and
- e. Damage claims associated with any future modification, suspension or revocation of the MDSPGP-4 or any specific MDSPGP-4 verification.

9. **Navigation:** Projects authorized under the MDSPGP-4 shall not cause interference with navigation, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to projects authorized under the MDSPGP-4. Nothing in the MDSPGP-4 shall in any way restrict the District Engineer, U.S. Army Engineer District, Baltimore, from exercising his legal authority to protect the public interest in navigation or from exercising his authority under the Navigation Servitude of the United States. (See VII.B.8.)

10. **Fills Within 100-Year Floodplain:** The activity must comply with applicable Federal Emergency Management Agency approved State or local floodplain management requirements.

11. **Safety of Impoundment Structures:** To ensure that all impoundment structures are safely designed, the Corps may require non-Federal applicants to demonstrate that the structures comply with established State dam safety criteria or have been designed by qualified persons. The Corps may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

B. Minimization of Environmental Impacts:

1. **Avoidance and Minimization:** Discharges of dredged or fill material into waters of the United States and adverse impacts of such discharges on the aquatic ecosystem shall be avoided and minimized to the maximum extent practicable at the project site (i.e., on-site).

2. **Mitigation Standards:** A proposed compensatory mitigation proposal may be submitted with the application to expedite the process. The Corps will determine if the project is eligible for authorization under the MDSPGP-4 subject to the applicant's submittal of a compensatory mitigation proposal for stream and wetland impacts. Compensatory mitigation plans will generally include a requirement for the establishment, performance, maintenance, legal protection (e.g., conservation easements), and long-term management of the mitigation area. Applicants may propose the use of mitigation banks, in-lieu-fee programs, or separate permittee-responsible mitigation. In general, maintenance of previously authorized activities typically does not require mitigation. All mitigation must be in compliance with the 2008 Mitigation Rule (73 FR 70).

a. Wetland mitigation will generally be required for all permanent tidal or nontidal wetland losses either through the use of the State's tidal or nontidal programmatic wetland compensation, mitigation banks, in-lieu-fee programs, and/or by the permittee as required by special condition of the MDSPGP-4 or the State authorization. Generally, the minimum required wetland mitigation ratios will be as follows: 2:1 for forested and scrub-shrub wetlands; 1:1 for herbaceous emergent wetlands, and 1:1 for permanent conversion of forested wetlands to herbaceous emergent wetlands. Wetland mitigation can include wetland restoration, establishment, enhancement (including restoration or enhancement of upland forested buffers), and/or wetland preservation, unless the Corps determines in writing that some other form of mitigation would be more appropriate and provides a project-specific waiver of this requirement. Since the likelihood of success is greater and the impacts are reduced, wetland restoration should be the first compensatory mitigation option considered.

b. Stream mitigation, focusing on functional replacement, will generally be required for any project that involves losses of more than 200 linear feet to stream channels and rivers through the use of mitigation banks, in-lieu-fee programs, or by the permittee as required by special condition of the MDSPGP-4 and/or the State authorization. Stream mitigation can include stream restoration, establishment, enhancement (including enhancement of riparian buffers), and stream preservation. Riparian buffer areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat impact concerns. The need to require mitigation for impacts to open waters will be determined on a case-by-case basis.

c. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu-fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee.

d. For permittee-responsible mitigation, the special conditions of the MDSPGP-4 verification must clearly indicate the party or parties responsible for the implementation, performance, and long-term management of the compensatory mitigation project.

3. **Work in Wetlands:** Heavy equipment working in wetlands shall be avoided if possible and, if required, soil and vegetation disturbance shall be minimized by using techniques such as timber mats, geotextile fabric, and vehicles with low-pressure tires. Disturbed areas in wetlands shall be restored to preconstruction contours and elevations upon completion of the work.

4. **Temporary Fill and Mats:** Temporary fill and the use of mats are both considered a discharge of fill material and must be included in the quantification of impact area authorized by the MDSPGP-4. Temporary fill (e.g., access roads, cofferdams) in waters and wetlands authorized by the MDSPGP-4 shall be properly stabilized during use to prevent erosion. Temporary fill in wetlands shall be placed on geotextile fabric laid on the existing wetland grade. Upon completion of the work, all temporary fills shall be disposed of at an upland site, suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas shall be restored to their original, pre-construction contours and revegetated with native wetland species.

5. **Erosion and Sediment Control:** Adequate erosion and sediment control measures, practices, and devices, such as turbidity curtains in tidal waters, vegetated filter strips, geotextile silt fences, phased construction, or other devices or methods, shall be used to reduce erosion and retain sediment on-site during and after construction. These devices and methods shall be capable of (a) preventing erosion, (b) collecting sediment and suspended and floating materials, and (c) filtering fine sediment. Erosion and sediment control devices shall be removed when the work is complete and the site has been successfully stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date. In-stream work shall be conducted "in the dry" whenever practicable. This should be accomplished using stream diversion devices, other than earthen or stone cofferdams. In addition, work in waters of the United States should be performed during periods of low-flow or no-flow, whenever practicable.

6. **Aquatic Life Movements:** No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through, or spawn/nursery within the area (e.g., anadromous/catadromous fish); unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. A low flow channel must be maintained through any discharges placed for armoring across the channel so as to not impede flow in the waterway and/or not to block or impede the movements of anadromous, estuarine, and resident fish. Permanent culvert or pipes placed in streams must be depressed in accordance with the State of Maryland regulations. If depression of the culvert is not practicable, the applicant must submit a narrative, along with their application, documenting measures evaluated to minimize disruption of the movement of aquatic life, as well as specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipe/culvert. Options that need to be considered include the use of a bridge, bottomless pipe, partial depression, or other measures to provide for the movement of aquatic organisms. The documentation must also include photographs documenting site conditions. The applicant may find it helpful to contact their regional fishery agency for recommendations about the measures to be taken to allow for fish passage

7. Water Crossings:

a. All temporary and permanent crossings of waterbodies shall be suitably bridged, culverted, or otherwise constructed to withstand and to prevent the restriction of high flows and tidal flows; to maintain existing low flows; and to prevent the obstruction of movement by aquatic life indigenous to the water body, including anadromous, estuarine, and resident fish species.

b. All water crossings (e.g., utility lines and road crossings) must be constructed roughly perpendicular to waters of the United States, including streams and wetlands. Where a utility line or access road is constructed parallel to a stream corridor, an undisturbed buffer shall be maintained between the utility line/access road and the waterway to avoid or minimize potential future impacts to waters of the United States. These potential impacts would include such issues as sewer line leaks or failures, future stream channel meandering, stream bank instability and failure, and right-of-way maintenance.

c. Water crossings must be constructed "in the dry" whenever practicable. This should be accomplished by using stream diversion devices other than earthen or stone cofferdams.

d. Equipment shall cross streams only at suitably constructed permanent or temporary crossings.

e. Temporary structures and fills shall be removed and the area restored to its original contours and elevations, or to the conditions specified in the approved plans. The temporary structures and the areas of fill associated with these structures must be included in the total waterway/wetlands impacts.

8. Discharge of Pollutants: All activities that are authorized under the MDSPGP-4 and that involve any discharge or relocation of pollutants into waters of the United States shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. 1251 et. Seq.), and applicable State and local laws and regulations. No discharge of dredged or fill material in association with this authorization may consist of unsuitable material such as trash, debris, car bodies, asphalt, etc.

9. Spawning Areas: Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill materials in fish and shellfish spawning or nursery areas during spawning seasons, shall be avoided. Impacts to these areas shall be avoided or minimized to the maximum extent practicable during all other times of year. Activities that result in the physical destruction (e.g., through excavation, dredging, mining, fill, or significant downstream sedimentation by substantial turbidity) of an important spawning/nursery area are not authorized by this MDSPGP-4.

10. Waterfowl Breeding and Wintering Areas: Discharges into breeding and wintering areas for migratory waterfowl shall be avoided to the maximum extent practicable.

11. Environmental Values: The permittee shall make every reasonable effort to construct or operate the work authorized under the MDSPGP-4 in a manner that maintains as many environmental values as practicable, and that avoids or minimizes any adverse impacts on existing fish, wildlife, and natural environmental values.

12. Management of Water Flows: To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

13. Water Supply Intakes: No discharge of dredged or fill material may occur in the proximity of a public water supply intake.

D. Procedural Conditions:

1. **Inspections:** The permittee shall permit the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary to ensure that the work is being performed in accordance with the terms and conditions of the MDSPGP-4. The District Engineer may also require post-construction engineering drawings (as-built plans) for completed work, and post-dredging survey drawings for any dredging work.

2. **Compliance Certification:** Every permittee who receives a written MDSPGP-4 verification shall submit a signed Compliance Certification Form within 60 days following completion of the authorized work and any required mitigation (but not mitigation monitoring, which requires separate submittals). Failure to submit the Compliance Certification Form by the permittee could result in the Corps taking appropriate non-compliance enforcement action against the permit holder. The Corps will provide a blank copy of the Compliance Certification Form to the permittee with the MDSPGP-4 verification. The completed form will include the following:

a. A statement that the authorized work either was or was not done in accordance with the MDSPGP-4 verification, including any general and/or specific conditions. If the activity was not done in accordance with the MDSPGP-4 verification, including any general and/or specific conditions and requirements, the permittee shall describe the specifics of the deviation from the authorized activity.

b. A statement that any required mitigation was or was not completed in accordance with the permit conditions. If the mitigation was not completed in accordance with the permit conditions, the permittee shall describe the specifics of the deviation from the permit conditions.

c. The signature of the permittee, certifying the completion of the work and compensatory mitigation.

After the project is completed, the certification shall be sent to the Baltimore District at the following address:

U. S. Army Corps of Engineers
Baltimore District
Attn: CENAB-OP-R
P. O. Box 1715
Baltimore, Maryland 21203-1715

3. **Transfer of MDSPGP-4 Verifications:** If the permittee sells the property associated with a MDSPGP-4 verification, the permittee may transfer the MDSPGP-4 verification to the new owner by submitting a letter to the Baltimore District Corps of Engineers office to validate the transfer. A copy of the MDSPGP-4 verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this MDSPGP-4 are still in existence at the time the property is transferred, the terms and conditions of this MDSPGP-4, including special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this MDSPGP-4 permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

4. **Maintenance:** The permittee shall properly maintain the work or structure authorized by the MDSPGP-4 in good condition and in compliance with the terms and conditions of the MDSPGP-4, including maintenance to ensure public safety.

5. **Property Rights:** The MDSPGP-4 does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.

6. Modification, Suspension and Revocation: The MDSPGP-4, or any verification under it, may be either modified, suspended, or revoked, in whole or in part, pursuant to DA policies and procedures and any such action shall not be the basis for any claim for damages against the United States.

7. Restoration: The permittee, upon receipt of a notice of revocation of authorization under the MDSPGP-4, shall restore the wetland or waterway to its former condition, without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.

8. Special Conditions: The Corps may impose special conditions on any project authorized under the MDSPGP-4, in cases where the Corps determines that special conditions are necessary to avoid or minimize adverse effects on the environment or on any other factor of the public interest. Failure to comply with all conditions of the authorization/ verification, including special conditions, will constitute a permit violation/unauthorized work and may subject the permittee to criminal, civil, or administrative penalties, and/or restoration.

9. False or Incomplete Information: In granting authorization pursuant to this permit, the Baltimore District will rely upon information and data provided by the permittee. If the project is verified by the Corps or MDE under the MDSPGP-4 and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the MDSPGP-4 verification may be revoked, in whole or in part, and/or the United States may institute appropriate legal proceedings.

10. Compliance: Any activity performed in waters of the United States, including wetlands and navigable waters, that is not in compliance with all the terms and conditions of the MDSPGP-4, which includes the MDSPGP-4 authorized activity activity-specific requirements, constitutes unauthorized work and is subject to an enforcement action by the Corps or the EPA. Furthermore, the MDSPGP-4 does not delegate any Section 404 enforcement or regulatory authority. Unauthorized work in waters of the United States, including wetlands and navigable waters, is subject to one or more of the following responses by EPA and/or the Corps:

- a. A Cease and Desist order and/or an administrative compliance order requiring remedial action.
- b. Initiation and assessment of a Class I administrative penalty order pursuant to Section 309(g) of the CWA.
- c. Initiation and assessment of a Class II administrative penalty for continuing violation pursuant to Section 309(g) of the CWA.
- d. Referral of the case to the U. S. Attorney with a recommendation for a civil or criminal action.
- e. If the Corps determines that an after-the-fact application is appropriate, it will be reviewed following the appropriate procedures.
- f. Any other appropriate response.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

Operations Division

MDSPGP-4 PERMIT COMPLIANCE CERTIFICATION FORM (10/1/11)

Corps Permit Tracking No. _____ Category & Activity Number _____

Project Name _____ Applicant Name _____

Waterway _____ County _____

Dear Permittee:

In accordance with the compliance certification condition of your MDSPGP-4 authorization, you are required upon completion of all permitted work, or if mitigation/compensation is required, within 60 days following completion of the authorized work and any required mitigation (but not the mitigation monitoring, which requires separate submittals), to complete and sign this certification form and return it to the Corps of Engineers, Baltimore District, ATTN: CENAB-OP-R, P.O. Box 1715, Baltimore, Maryland 21203-1715.

Please note that the permitted activity is subject to compliance inspections by U.S. Army Corps of Engineers representatives. As a condition of this permit, failure to return this notification form, provide the required information below, or to perform the authorized work in compliance with the permit, can result in suspension, modification or revocation of your authorization in accordance with 33 CFR Part 325.7 and/or administrative, civil, and/or criminal penalties, in accordance with 33 CFR part 326.

Please provide the following information:

1. Date authorized work commenced: _____ 2. Date authorized work completed: _____

3. Was all work and any required mitigation, completed in accordance with your MDSPGP-4 authorization, including all general and/or specific conditions? YES ___ NO ___

4. For Category A projects involving pile driving activities that are within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels less than 6 parts per thousand (See Appendix B of the MDSPGP-4), please indicate the pile driving method that was used for the authorized work:

- ____ (a) Piles must be installed in-the-dry during low water;
- ____ (b) Piles must be drilled and pinned to ledge;
- ____ (c) Vibratory hammers must be used to install any size and quantity of wood, concrete, or steel pilings;
- ____ (d) Impact hammers must be limited to one hammer and <50 piles installed per day with the following: wood piles of any size; concrete piles <18-inches diameter; steel piles <12-inch diameter if the hammer is <3,000 pounds and a wood cushion is used between the hammer and steel pile;
- ____ (e) Approved pile driving methods that will allow noise level thresholds to be met.
Describe: _____

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION
LETTER OF AUTHORIZATION

AUTHORIZATION NUMBER: 13-NT-2092/201361508
EFFECTIVE DATE: October 29, 2013
EXPIRATION DATE: October 29, 2016
AUTHORIZED PERSON: Maryland Transit Administration
6 Saint Paul St
Baltimore, Maryland 21202
Attn: Wane-Jang Lin



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 OF AUTHORIZATIONS, Maryland Transit Administration (AUTHORIZED PERSON"), IS HEREBY AUTHORIZED BY THE WATER MANAGEMENT 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 October 29, 2013 ("APPROVED PLAN") AND PREPARED BY Wallace Montgomery AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

To conduct maintenance and repair to MTA culvert(s) structure no. 10.43 utilizing stream diversion, sandbags/stone barriers during all phases of work. This authorized activity requiring the removal of vegetation shall temporarily disturb approximately 260 square feet of emergent nontidal wetlands, 1,585 square feet of regulated nontidal wetlands buffer and 75 linear feet of stream channel. No in-stream work shall be conducted from March 1 thru June 15 of any year. Project is located in Kennedyville, Kent County, Maryland.

MD Grid Coordinates: 182400 x 484850

A handwritten signature in black ink, appearing to read "Amanda Sigillito", written over a horizontal line.

Amanda Sigillito
Division Chief
Nontidal Wetlands Division

Attachments: Conditions of Authorization

cc: Harry Hunsicker – MDE Compliance Division w/file
Kelly Flint – MDE Waterway Construction Division
Marla Duley – Wallace Montgomery, Inc.

Received
Maryland Transit Administration

NOV - 1 2013

201361508a.laf

Office of Engineering
Track & Structural Preservation Engineering

THE FOLLOWING CONDITIONS OF AUTHORIZATION APPLY TO ALL ACTIVITIES AUTHORIZED BY
AUTHORIZATION NUMBER 13-NT-2092/201361508

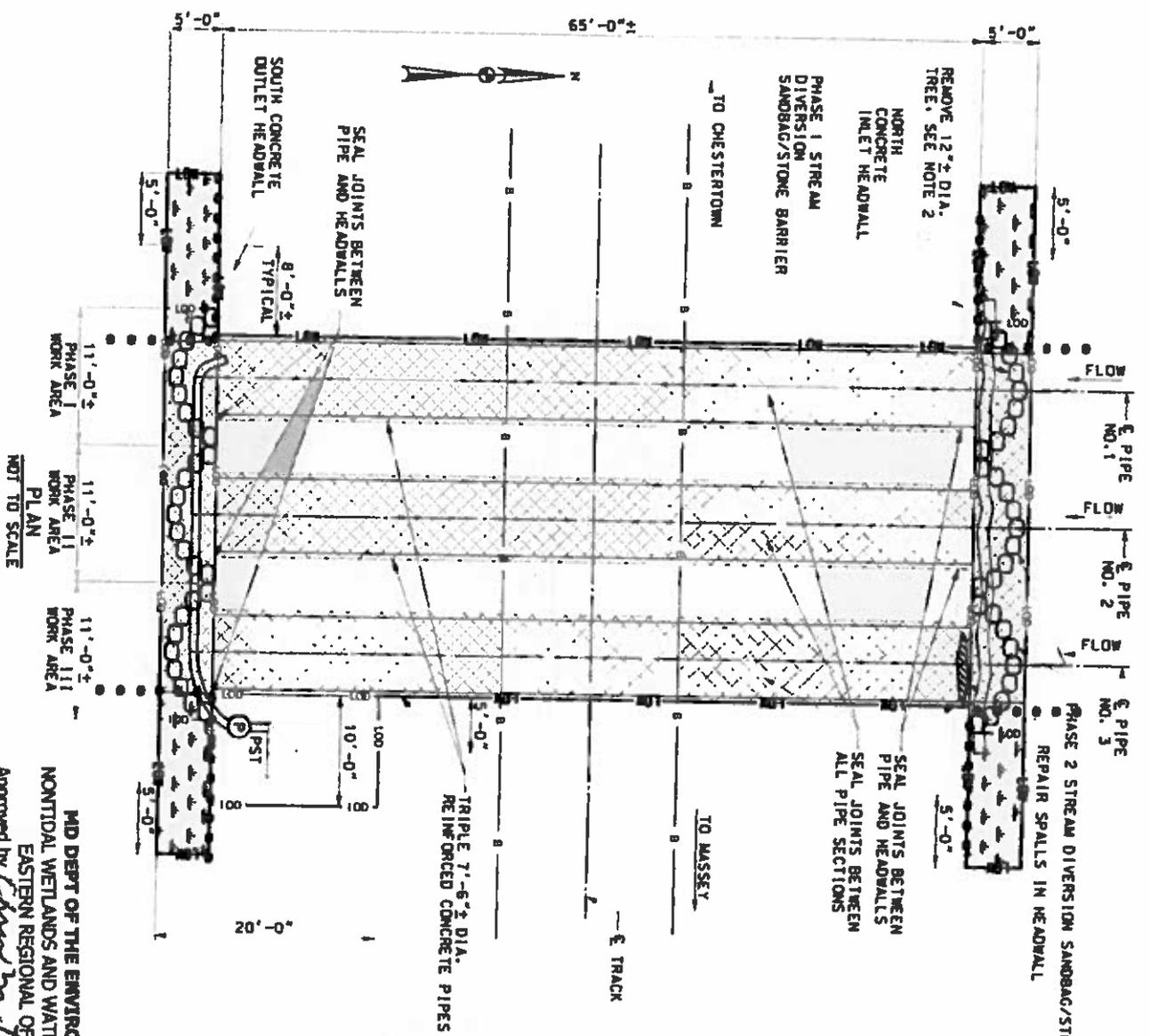
Page 2 of 3

1. **Validity:** Authorization is valid only for use by Authorized Person. Authorization 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 Authorization.
2. **Initiation of Work, Modifications and Extension of Term:** Authorized Person shall initiate authorized activities with two (2) years of the Effective Date of this Authorization or the Authorization shall expire. Authorized Person may submit written requests to the Administration for (a) extension of the period for initiation of work, (b) modification of Authorization, including the Approved Plan, or, (c) not later than 45 days prior to Expiration Date, an extension of the 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.
3. **Responsibility and Compliance:** Authorized Person is fully responsible for all work performed and activities authorized by this Authorization shall be performed in compliance with this Authorization and Approved Plan. Authorized Person agrees that a copy of the Authorization and Approved Plan shall be kept at the construction site and provided to its employees, agents and contractors. A person (including Authorized Person, its employees, agents or contractors) who violates or fails to comply with the terms and conditions of this Authorization, 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 Authorized Person, its employees, agents or contractors fail to comply with this Authorization or Approved Plan, the Administration may, in its discretion, issue an administrative order requiring Authorized Person, its employees, agents and contractors to cease and desist any activities which violate this Authorization, or the Administration may take any other enforcement action available to it by law, including filing civil or criminal charges.
5. **Suspension or Revocation:** Authorization may be suspended or revoked by the Administration, after notice of opportunity for a hearing, if Authorized Person: (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 Authorization; (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 Authorization and new information, changes in site conditions, or amended regulatory requirements necessitate revocation or suspension.
6. **Other Approvals:** Authorization 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:** Authorized Person 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. Authorized Person shall provide necessary assistance to effectively and safely conduct such inspections and evaluations.
8. **Inspection Notification:** Authorized Person 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, Authorized Person shall call 301-689-1480. For Carroll, Frederick, Howard, Montgomery and Prince George's Counties, Authorized Person shall call 301-665-2850. For Baltimore City, Anne Arundel, Baltimore, Calvert, Charles, and St. Mary's Counties, Authorized Person shall call 410-537-3510. For Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, Somerset, Talbot, Wicomico and Worcester Counties, Authorized Person shall call 410-901-4020. If Authorization is for a project that is part of a mining site, please contact the Land Management 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:** Authorized Person shall obtain approval from the Kent Soil Conservation District 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. **Federally Mandated State Authorizations:**
 - Water Quality Certification:** Water Quality Certification is granted for this project provided that all work is performed in accordance with the authorized project description and associated conditions.
 - Coastal Zone Consistency:** This Authorization constitutes official notification that authorized activities are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the Federal Coastal Zone Management Act of 1972, as amended. Activities within the following counties are not subject to this requirement:
Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington.

11. **Best Management Practices During Construction:** Authorized Person, its employees, agents and contractors shall conduct authorized activities in a manner consistent with the Best Management Practices specified by the Administration.
12. **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.
13. **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.
14. **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, Authorized Person, 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.
15. **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.
16. **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): Morgan Creek is a Use I waterway; in-stream work may not be conducted from March 1 through June 15 inclusive, of any year.
17. **Instream Blasting:** Authorized Person shall obtain prior written approval from the Administration before blasting or using explosives in the stream channel.
18. **Minimum Disturbance:** Any disturbance of stream banks, channel bottom, wetlands, and wetlands buffer authorized by this Authorization 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.
19. **Restoration of Construction Site:** Authorized Person 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 Authorized Person as directed by the Administration.
20. **Mitigation:** Authorized Person shall mitigate for the loss of <N/A> by creating the equivalent of at least <N/A>, 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. A Phase II Mitigation Plan shall be submitted to the Section no later than 90 days after the issuance of this Letter of Authorization, unless an extension has been granted in writing by the Section. The Phase II Mitigation Plan must be approved by the Section, through the Phase II Mitigation Plan Approval Letter and its associated exhibits ("Approval Letter"), prior to commencing the impacts authorized in this Authorization. The Authorized Person shall successfully construct the mitigation site 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 Authorization. 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 Authorized Person is required to notify the Section upon the start of grading and the completion of planting of the mitigation project. The Authorized Person shall submit monitoring reports for the mitigation project to the Section as specified in the Approval Letter. If the Authorized Person as stated in the Authorization, changes, the Authorized Person must notify the Section. If the mitigation obligation is to be transferred to another party, the Authorized Person must notify the Section

U.S. ARMY CORPS OF ENGINEERS AUTHORIZATION

The U.S. Army Corps of Engineers has reviewed this activity and has granted authorization under the Maryland State Programmatic General Permit (MDSPGP-4), as a Category A activity. The terms and conditions of the MDSPGP-4, as outlined in the enclosed attachment, should be followed when performing the authorized work.



LEGEND

- TEMPORARY WATERS OF THE US IMPACTS
- TEMPORARY WETLANDS IMPACTS
- LIMIT OF WORK
- LIMIT OF DISTURBANCE
- WATERS OF THE US
- DIRECTION OF FLOW
- PORTABLE SEDIMENT TANK
- STREAM DIVERSION PUMP
- STREAM DIVERSION SANDBAG/STONE BARRIER
- WETLAND IMPACTS BOUNDARY
- 25' BUFFER BOUNDARY

TOTAL IMPACTS

PERMANENT WUS IMPACT: 0 LF, 0 SF
 TEMPORARY WUS IMPACT: 75 LF, 1773 SF
 PERMANENT WETLAND IMPACT: 0 SF
 TEMPORARY WETLAND IMPACT: 260 SF
 PERMANENT 25 FT BUFFER IMPACT: 0 SF
 TEMPORARY 25 FT BUFFER IMPACT: 1585 SF
 100 YR FLOODPLAIN IMPACTS: 0 SF, +0 CY (FILL)

NOTES:

1. WORK SHALL NOT BE PERFORMED ON A DAY WHEN THERE IS NO PRECIPITATION IN THE FORECAST. THE CONTRACTOR SHOULD WAIT AT LEAST 8 HOURS BEFORE THE AREA REPAIRED IS SUBMERGED WITH WATER.

MID DEPT OF THE ENVIRONMENT
 NONTIDAL WETLANDS AND WATERWAYS DIV
 EASTERN REGIONAL OFFICE
 Approved by *[Signature]*
 Date *October 29, 2013*

STATE OF MARYLAND
 DEPARTMENT OF TRANSPORTATION
 MARYLAND TRANSPORT ADMINISTRATION
 WETLANDS AND WATERS OF THE
 US IMPACTS, PLATE 1
 REPAIRS TO CULVERT NO 10.43
 OVER TRIBUTARY OF MORGAN CREEK
 KENT COUNTY, MARYLAND



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

201361508/13-NT-2092
Corps Permit Tracking Number

MDSPGP-4
CATEGORY A, ACTIVITY (A-b(1))
General Maintenance

The projects, structures and activities, listed below, must comply with all activity-specific conditions, in addition to all of the general conditions of this general permit.

This activity authorizes discharges of dredged or fill material for the repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill. This activity authorizes minor deviations in the configuration of the structure or filled area, including changes in materials, construction techniques, current construction codes, or safety standards that are necessary to make the repair, rehabilitation, or replacement, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modification must be immediately adjacent to the project. Currently serviceable means that the structure or fill is usable in its current condition, or with some maintenance, but not so degraded as to essentially require reconstruction. This activity also authorizes the removal of accumulated sediments and debris in the vicinity of, and within, existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.). This activity also authorizes repair, rehabilitation, or replacement in-kind of structures destroyed by storms, floods, fire or other discrete events. This activity authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Section 404(f) exemption for maintenance (Sections 10 and 404; all waters of the United States).

Impact Limits and Requirements:

- i. No application is required for Corps authorization except for replacement of previously authorized, currently serviceable structures, located along a Federally authorized navigation channel, that are destroyed by an act of nature or other sudden event, or for modification of previously authorized, currently serviceable structures located along Federally authorized navigation channels. In these cases, an application is required to be submitted to the Corps for review under Category B or alternate Corps permit review procedures, as appropriate.
- ii. The total temporary (i.e., construction impacts including stream diversion devices) and permanent impacts to waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open waters, are not to exceed 10,000 square feet and/or 500 linear feet of streams, rivers, and other open waters.
- iii. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend any further than 200 linear feet in any direction from the structure.
- iv. Any impact to waters of the United States, including wetlands, associated with this activity is to be minimized below these impact limits to the greatest extent possible.
- v. The following conditions are applicable to Coastal Plain streams, and Harford and Cecil County Piedmont streams:
 - (1) Permanent culvert pipes that are greater than 24 inches in diameter and bridge/arch footers must be countersunk a minimum of 12 inches below the natural stream invert.

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CATEGORY A, ACTIVITY (A-b(1))

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- (2) Permanent culvert pipes and bridge/arch footers placed in streams on bedrock or over buried utility lines are exempt from these countersinking (i.e., depressing) requirements and must be constructed in accordance with the State of Maryland regulations. Permanent culvert pipes and bridge/arch footers placed in streams on bedrock or over buried utility lines are eligible for Category A review with specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipes/culvert.
- (3) All permanent culvert pipes greater than 24 inches in diameter and bridge/arch footers (except those placed in streams on bedrock or over buried utility lines) that cannot be countersunk in accordance with condition (1) above are not eligible for Category A and must be reviewed under Category B or alternate Corps permit review procedures, as appropriate.

Requirements Applicable to Both Category A and Category B Activities:

- i. An application is required to be submitted to the Corps for review under Category B for authorization of previously authorized, currently serviceable structures located along Federally authorized navigation channels that are destroyed by an act of nature or other sudden event or that are proposed to be modified.
- ii. The repair, rehabilitation, or replacement activity is limited to the original dimensions or configuration, except for minor deviations due to changes in materials, construction techniques, or current construction codes or safety standards. Minor deviations in the configuration of the structure or filled area must not exceed the minimum necessary to make the repair, rehabilitation, or replacement.
- iii. Repair, rehabilitation, or replacement of an existing serviceable structure should not result in the displacement of in-stream habitats or features important to anadromous, estuarine, and resident fish, such as plunge or scour pools. Work under this activity must not impede flow in the waterway and/or must not block or impede the movements of anadromous and resident fish.
- iv. Culverts must be adequately sized to allow for the passage of ordinary high water with the depression and invert restrictions taken into account.
- v. Extensions of existing pipes or culverts that are not depressed below the stream invert are exempt from the requirement to depress the culvert.
- vi. This activity does not authorize access roads. Access roads are authorized under IV.B.I.e.(7) Temporary Construction Access, Stream Diversion, and Dewatering.
- vii. The structure or fill must not be put to uses differing from those uses specified or contemplated for it in the original permit or the most recent authorized modification.
- viii. Repair, rehabilitation, or replacement of previously authorized, currently serviceable structures or fills destroyed or damaged by storms, floods, fire, or other discrete events must be started or under contract to start within 2 years of the date that they were damaged or destroyed.
- ix. Maintenance of existing stormwater management facilities must be performed in accordance with any maintenance plan to restore to the design as originally approved and constructed, which includes limiting excavation to the original contours.
- x. This activity does not authorize the discharge of dredged or fill material for the purpose of reclaiming land lost through gradual erosion processes.

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CATEGORY A, ACTIVITY (A-b(1))

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- xi. This activity does not authorize any maintenance dredging, beach restoration, stream restoration, stream relocation, or channelization, and/or repair or replacement of bulkheads.**
- xii. This activity does not authorize blasting or other forms of uncontained in-water demolition.**
- xiii. All excavated materials must be deposited and retained in an upland (non-wetland) area.**



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1716
BALTIMORE, MD 21203-1716

IMPORTANT INFORMATION ABOUT YOUR PROJECT

Corps Permit Tracking No.: 201361508/13-NT-2092 Date: October 29, 2013

Permittee/Project Name: MTA 10.43 Rail Line MDSPGP-4 Category and Activity No.: AB-1

Dear Applicant:

The U. S. Army Corps of Engineers, Baltimore District, has determined that the proposed work meets the enclosed terms and conditions of the Maryland State Programmatic General Permit-4 (MDSPGP-4). A requisite of permit issuance requires that the applicant comply with any specific terms and conditions associated with the authorized project (conditions enclosed). This MDSPGP-4 verification is provided pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. If any of the information contained in your application and/or plans is later found to be in error, the MDSPGP-4 authorization for your project may be modified, suspended, or revoked.

As a condition of the MDSPGP-4 authorization, you, the permittee, are required to complete and sign the enclosed Compliance Self-Certification Form regarding the completed work and any required mitigation. The signed form should be returned to the Regulatory Branch at the above address within 60 days following completion of the authorized work and any required mitigation.

Please be aware that the terms and conditions of this permit will continue to be binding on the new property owner(s) if structures or work authorized by this permit exist at the time of ownership transfer of the associated property. Although the construction period for work authorized by this MDSPGP-4 is finite, the permit itself, with its limitations, does not expire. To validate the transfer of this permit and the legal responsibility to comply with its terms and conditions, the transferee (new owner) must provide the Corps a mailing address and telephone number along with their signature and date in the space provided below and mail a copy to the above address.

Your MDSPGP-4 authorization is valid until September 30, 2016 unless the permit is modified, reissued, or revoked. You must remain informed of the changes to the MDSPGP-4. When changes to the MDSPGP-4 occur, a public notice announcing the changes will be issued. Be advised that you have 12 months from the effective date of the MDSPGP-4's expiration, modification or revocation to complete the work under the present terms and conditions provided you have commenced construction or are under contract to commence construction of the authorized work.

In order for this authorization to be valid, you must obtain all required Federal, State, and local permits.

William P. Seib

William P. Seib
Chief, Regulatory Branch

TRANSFEREE SIGNATURE

DATE

AREA CODE / TELEPHONE NO.

PRINTED NAME

ADDRESS



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

REPLY TO
ATTENTION OF

Effective October 1, 2011

201361508/13-NT-2092
Corps Permit Number

CENAB-OP-R-MDSPGP-4 (MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-4)

TO WHOM IT MAY CONCERN:

Upon the recommendation of the Chief of Engineers, and under the provisions of Section 404 of the Clean Water Act, as amended, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Secretary of the Army hereby authorizes the discharge of dredged or fill material or the placement of structures into Waters of the United States, including wetlands and navigable waters. These discharges and structures must comply with all the terms and conditions identified in this MDSPGP-4. It has been determined that the project qualifies for the MDSPGP-4. Accordingly, you are authorized to undertake the activity pursuant to:

1. Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403); and/or
2. Section 404 of the Clean Water Act (33 U.S.C. 1344).

You are authorized to perform work in accordance with the terms and conditions specified in Section VII of the MDSPGP-4 effective on October 1, 2011.

VII. General Conditions: To qualify for MDSPGP-4 authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any activity-specific conditions in the MDSPGP-4 category list and any case-specific special conditions imposed by the Corps.

A. General Requirements:

1. **Other Permits:** Authorization under the MDSPGP-4 does not obviate the need to obtain other Federal, State, or local authorizations required by law.
2. **Geographic Jurisdiction:** This MDSPGP-4 will authorize work undertaken within the geographic limits of the State of Maryland under the regulatory jurisdiction of the Baltimore District.
3. **Applicability:** Applicability of the MDSPGP-4 shall be reviewed with reference to the Corps definition of waters of the United States, including wetlands, and navigable waters of the United States. Applicants are responsible for delineating boundaries of all waters of the United States, including wetland boundaries. The delineation of wetland boundaries shall be accomplished in accordance with the current Federal manual for identifying jurisdictional wetlands and appropriate guidance issued by the Corps of Engineers.
4. **Minimal Effects:** Projects authorized by the MDSPGP-4 shall have no more than minimal individual and cumulative adverse environmental effects.
5. **Discretionary Authority:** Notwithstanding compliance with the terms and conditions of the MDSPGP-4, the Corps retains discretionary authority to require an alternate Corps permit review for any project under all categories of the MDSPGP-4 based on concerns for the aquatic environment or for any other factor of the public interest. This authority may be invoked on a case-by-case basis during the review process for Category B activities whenever the Corps determines that, based on the concerns stated above, the potential consequences of the proposed project warrant individual review. In some rare instances, the Corps may have concerns for the aquatic environment or for any other public interest factor pertaining to a specific proposed project, which has already received a case-specific verification as a Category A activity. In order to evaluate this project under an alternate Corps permit review, the verification must be suspended in accordance with Section VIII.E of the MDSPGP-4.

Whenever the Corps notifies an applicant that an alternate Corps permit may be required, authorization under the MDSPGP-4 is voided. No work may be conducted until the individual Corps permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under the MDSPGP-4.

6. Single and Complete Projects: The MDSPGP-4 shall not be used for piecemeal work and shall be applied to single and complete projects, including maintenance activities. For purposes of this MDSPGP-4, a single and complete project means the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers and which has independent utility. All components of a project, including all attendant features both temporary and permanent, shall be reviewed together as constituting one single and complete project. All planned phases of multi-phased projects (e.g., subdivisions should include all work such as roads, utilities, and lot development) shall be applied for and reviewed together as constituting one single and complete project. The MDSPGP-4 shall not be used for any activity or portion of a project (e.g., a pier or boat ramp), that is part of, or dependent on, an overall project (e.g., the dredging of a main navigation channel or a spur channel), for which an individual permit or some other alternate Corps permit is required.

7. Use of Multiple MDSPGP-4 Activities: More than one MDSPGP-4 activity may be used to authorize a single and complete project. However, the specific requirements, including all activity-specific requirements and impact thresholds, must be met for each MDSPGP-4 activity and the total extent of project impacts must not exceed the acreage and/or linear foot limit of the MDSPGP-4 activity with the highest specified acreage and/or linear foot limit. For example, if a road crossing is authorized under Category A of Section IV.B.1.(d)(1) with an associated nontidal bank stabilization authorized under Section IV.B.1.f.(4)(a), the maximum total impact limits to nontidal waters of the United States for the single and complete project may not exceed 10,000 square feet in total area and/or 500 linear feet in total length. The road crossing and nontidal bank stabilization activities must still meet all Category A activity-specific requirements and impact thresholds.

A single and complete project with multiple impacts, that may be eligible for authorization under a Category A and a Category B activity, requires an application submittal to the Corps and review under the MDSPGP-4 Category B verification procedures. All specific requirements, including the activity-specific requirements and impact thresholds of the Category A activity and the Category B activity must be met and the total extent of project impacts must not exceed to total acreage and/or linear foot limit of the MDSPGP-4 activity with the highest specified acreage and/or linear foot limit. For example, if a road crossing is authorized under Category A of Section IV.B.1.(d)(1) with an associated nontidal bank stabilization authorized under Section IV.B.f.(4)(b), the maximum total impact limits to waters of the United States for the single and complete project may not exceed 1/2 acre (21,780 square feet) in total area and/or 2,000 linear feet in total length. The road crossing activity must meet the Category A activity-specific requirements and impact thresholds, and the nontidal bank stabilization activity must meet the Category B activity-specific requirements and impact thresholds.

8. Permit On-Site: The permittee shall ensure that a copy of the MDSPGP-4 and the accompanying authorization letter are at the work site at all times. These copies must be made available to any regulatory representative upon request. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be expected to comply with all conditions of any general permit authorization.

9. Authorized Activities in Navigable Waters Subject to Section 10 of the Rivers and Harbors Act of 1899:

a. If future operations by the United States require removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable water, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

b. The permittee acknowledges the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels and/or ice flows within the waterway. The issuance of this permit does not relieve the permittee from taking all proper steps to ensure the integrity of the structure permitted herein and the safety of vessels moored thereto from damage by wave wash and/or ice flows, and the permittee shall not hold the United States liable for such damage.

c. The permittee must install and maintain, at his/her expense any safety lights, markers, and/or signals prescribed by the USCG, through regulations or otherwise, on the authorized facilities and/or structures. The permittee must contact the Commander (AOWW), Fifth Coast Guard District, Federal Building, 431 Crawford

Street, Portsmouth, Virginia, 23704, to ascertain the need for obstruction lights. Prior to commencing the construction or installation of an authorized structure in navigable waters of the United States, the permittee must submit a "Private Aids to Navigation Application" to the Commander of the USCG.

d. The permittee must provide location coordinates of the authorized structures, including minimum depth and other pertinent information to the USCG and request that a Local Notice to Mariners is issued regarding the authorized work.

10. For Aerial Transmission Lines Across Navigable Waters: The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the USCG for new fixed bridges, in the vicinity of the proposed aerial transmission line. These clearances are based on the low point of the line under conditions producing the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code:

NOMINAL SYSTEM VOLTAGE (kV)	Minimum additional clearance (ft.) above clearance required for bridges.
115 and below	20
138	22
161	24
230	26
350	30
500	35
700	42
750-765	45

a. Clearances for communication lines, stream gauging cables, ferry cables, and other aerial crossings must be a minimum of ten feet above clearances required for bridges, unless specifically authorized otherwise by the District Engineer.

b. Corps Regulation ER 1110-2-4401 prescribes minimum vertical clearances for power communication lines over Corps lake projects. In instances where both the National Electrical Safety Code requirements and ER 1110-2-4401 apply, the greater minimum clearance is required.

A. National Concern:

1. **Historic Properties:** Any activity authorized by the MDSPGP-4 shall comply with Section 106 of the National Historic Preservation Act. Maryland Department of the Environment, in cooperation with the Maryland Historic Preservation Office, shall conduct an initial review and notify the Corps if any archaeological or other cultural resources are in the vicinity of the project. The Corps may require applicants to perform a survey of archaeological and historical resources in the project area. The Corps shall determine whether National Historic Preservation Act Section 106 consultation is required. The applicant must notify the Corps if they have knowledge that the activity may affect any historic properties listed or eligible for listing, or that the applicant has reason to believe may be eligible for listing on the National Register of Historic Places. If the permittee discovers any previously unknown archaeological or other cultural resource while accomplishing the work authorized by the MDSPGP-4, the permittee shall immediately notify the Corps of what has been found and stop work in the permit area until the required coordination has been completed. The permittee shall not begin or continue work until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied

and that the activity may proceed. Information on the location and existence of historical resources can be obtained from the MHT, Office of Preservation Services, and the National Register of Historic Places.

2. **Tribal Rights:** No activity or its operation may impair reserved tribal rights, including but not limited to, reserved water rights and treaty fishing and hunting rights.

3. **National Lands:** Activities authorized by the MDSPGP-4 shall not impinge upon the value of any Federal land, including but not limited to, National Wildlife Refuges, National Forests, National Parks, National Marine Sanctuaries, or any area administered by the FWS, U.S. Forest Service, or National Park Service (e.g., Assateague Island National Seashore).

4. **Endangered Species:** The MDSPGP-4 does not authorize any activity that may directly or indirectly affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal ESA; or which may directly or indirectly destroy or adversely modify the critical habitat of such species unless and until appropriate coordination with the applicable resource agency(s) is complete and all such issues are resolved in accordance with the applicable regulations and procedures. MDE, in cooperation with MD DNR, shall conduct an initial review and notify the Corps and FWS or NMFS if any Federally listed species or critical habitat is likely to be in the vicinity of the project. The Corps shall determine if consultation with FWS or NMFS is required under Section 7 of the ESA. If consultation is required, the applicant, after notification, shall not begin or continue work until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is eligible for authorization. Information on the location of threatened and endangered species and their critical habitat can be obtained from FWS and NMFS. The Corps will be initiating consultation under the Endangered Species Act on this MDSPGP-4 and any conditions from that consultation will be inserted into the MDSPGP-4.

National Marine Fisheries Service – Endangered Species Act Requirements:

a. **Interactions with National Marine Fisheries Service Federally Threatened or Endangered Species:** Any interaction between a sea turtle or any species listed now or in the future under Federal law as a threatened or endangered species ("listed species") (e.g., North Atlantic right whale, humpback whale, shortnose sturgeon) and the vessels associated with the project must be reported to the NMFS as follows: If the animal appears alive and uninjured (i.e., breathing normally, no visible wounds, movement uninhibited), the permittee or its representative must report the incident to the NMFS Northeast Region Marine Mammal and Sea Turtle Stranding and Entanglement Hotline at (866) 755-6622 within 24 hours of returning from the trip on which they made the discovery. If the animal requires assistance, the call to the hotline must be made immediately. If the animal appears to be injured (i.e. bleeding, gasping for air, etc.) or dead, the permittee or its representative must also immediately call the hotline so the appropriate rehabilitation or stranding network representative can be contacted. The applicant shall also notify the Corps of all correspondence and interaction with the NMFS within two calendar days. Additional information about any Federally threatened or endangered species may be obtained from the attached fact sheet or online at: http://www.nero.noaa.gov/prot_res/stranding/SpeciesOverview.html and at: http://www.nero.noaa.gov/prot_res/esp/. An interaction is defined as an entanglement or capture of a listed species or a strike/direct contact between vessels or equipment used for the project and a listed species.

b. **Vessel Buffer:** When listed species are sighted, vessels must attempt to maintain a distance of 50 yards (150 feet) or greater between the animal and the vessel whenever possible. State and Federal regulations prohibit approaching a right whale within a 500 yard (1,500 foot) buffer zone. Any vessel finding itself within the 500 yard (1,500 foot) buffer zone created by a surfacing right whale must depart immediately at a safe, slow speed. If other listed species are detected, vessels will reduce their speeds to 10 knots or to the maximum extent practicable to ensure human safety. If listed species are sighted off of a moving dredge, intentional approaches within 100 yards (300 feet) of the animal must be avoided. Vessels must reduce speeds to 4 knots or the lowest speed practicable to ensure human safety. Any interactions must be reported to the NMFS.

c. **Best Management Practices Applicable to Category A Activities Within Tidal Waters Having Salinity Levels Less Than 6 Parts Per Thousand (ppt) (See Appendix B):**

(i) **Pile Driving:** For the protection of listed species within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels <6 ppt, pile driving methods must maintain noise level thresholds not to exceed 187dB SEL re 1µPa or 206dB peak re 1µPa at a distance of >10m from the pile being installed; and for levels >155dB peak re 1µPa must not exceed 12 consecutive hours on any given day and a 12 hour

recovery period (i.e., in-water noise levels below 155dB peak re 1µPa) must be provided between work days. Pile driving construction must adhere to one of the following methods: (a) piles must be installed in-the-dry during low water; or (b) piles must be drilled and pinned to ledge; or (c) vibratory hammers must be used to install any size and quantity of wood, concrete, or steel pilings; or (d) impact hammers must be limited to one hammer and <50 piles installed per day with the following: wood piles of any size; concrete piles <18-inches diameter; steel piles <12-inch diameter if the hammer is <3,000 pounds and a wood cushion is used between the hammer and steel pile; or (e) approved pile driving methods that will allow noise level thresholds to be met.

(II) **Sediment Disturbing Activities Time-of-Year Restriction:** Sediment disturbing activities, which includes pile driving activities, are prohibited during the period April 1 through June 30 within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels <6 ppt for the protection of shortnose sturgeon and early life stages in these waters.

5. **Essential Fish Habitat (EFH) and Fish and Wildlife Coordination Act:** Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires an EFH consultation with the NMFS for any action or proposed action authorized, funded, or undertaken by a Federal agency that may adversely affect EFH. Essential Fish Habitat has been defined by Congress as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." The designation and conservation of EFH seeks to minimize adverse effects on habitat caused by fishing and non-fishing activities. NMFS has determined that many of the MDSPGP-4 Category A activities are eligible for EFH general or programmatic concurrence and require no further EFH consultation. National Marine Fisheries Service, in consultation with the District, has determined that individual EFH consultation is needed for some projects potentially eligible for authorization under Category A of the MDSPGP-4 that may adversely affect EFH. The Corps will coordinate with NMFS as part of the Category B review procedures. EFH conservation recommendations made by NMFS will normally be included as a permit requirement by the Corps. If the EFH coordination and consultation requirements cannot be resolved under the MDSPGP-4 process, an alternate Corps permit review process is required for the project. The Corps will be initiating consultation under these authorities on this MDSPGP-4, and any conditions from that consultation to protect NOAA trust resources will be inserted into this MDSPGP-4.

6. **Wild and Scenic Rivers:** No activity is authorized under the MDSPGP-4 that occurs in a component of the National Wild and Scenic River System, including rivers officially designated by Congress as study rivers for possible inclusion in the system, while such rivers are in an official study status, unless the appropriate Federal agency, with direct management responsibility for the river, has determined in writing that the proposed activity will not adversely affect any National Wild and Scenic River, including study rivers. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U. S. Forest Service, Bureau of Land Management, or FWS).

7. **Federally Authorized Civil Works Projects:**

a. **Federal Navigation Projects:** The MDSPGP-4 does not authorize interference with any existing or proposed Federal navigation projects. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration. (See VII.A.9.a.)

b. **Federal Navigation Channel Setbacks:** All activities must comply with the Baltimore District Minimum Setback Guidance for Structures Along Federally Authorized Channels. Please see the Baltimore District's Regulatory webpage to view this guidance:
<http://www.nab.usace.army.mil/Wetlands%20Permits/publications.htm>.

c. **Other Federally Authorized Civil Work Projects (e.g., flood control, dams, and reservoirs):** The MDSPGP-4 does not authorize interference with any proposed or existing Federally authorized civil works project.

8. Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes;
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest;
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
- d. Design or construction deficiencies associated with the permitted work; and
- e. Damage claims associated with any future modification, suspension or revocation of the MDSPGP-4 or any specific MDSPGP-4 verification.

9. Navigation: Projects authorized under the MDSPGP-4 shall not cause interference with navigation, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to projects authorized under the MDSPGP-4. Nothing in the MDSPGP-4 shall in any way restrict the District Engineer, U.S. Army Engineer District, Baltimore, from exercising his legal authority to protect the public interest in navigation or from exercising his authority under the Navigation Servitude of the United States. (See VII.B.8.)

10. Fills Within 100-Year Floodplain: The activity must comply with applicable Federal Emergency Management Agency approved State or local floodplain management requirements.

11. Safety of Impoundment Structures: To ensure that all impoundment structures are safely designed, the Corps may require non-Federal applicants to demonstrate that the structures comply with established State dam safety criteria or have been designed by qualified persons. The Corps may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

B. Minimization of Environmental Impacts:

1. Avoidance and Minimization: Discharges of dredged or fill material into waters of the United States and adverse impacts of such discharges on the aquatic ecosystem shall be avoided and minimized to the maximum extent practicable at the project site (i.e., on-site).

2. Mitigation Standards: A proposed compensatory mitigation proposal may be submitted with the application to expedite the process. The Corps will determine if the project is eligible for authorization under the MDSPGP-4 subject to the applicant's submittal of a compensatory mitigation proposal for stream and wetland impacts. Compensatory mitigation plans will generally include a requirement for the establishment, performance, maintenance, legal protection (e.g., conservation easements), and long-term management of the mitigation area. Applicants may propose the use of mitigation banks, in-lieu-fee programs, or separate permittee-responsible mitigation. In general, maintenance of previously authorized activities typically does not require mitigation. All mitigation must be in compliance with the 2008 Mitigation Rule (73 FR 70).

a. Wetland mitigation will generally be required for all permanent tidal or nontidal wetland losses either through the use of the State's tidal or nontidal programmatic wetland compensation, mitigation banks, in-lieu-fee programs, and/or by the permittee as required by special condition of the MDSPGP-4 or the State authorization. Generally, the minimum required wetland mitigation ratios will be as follows: 2:1 for forested and scrub-shrub wetlands; 1:1 for herbaceous emergent wetlands, and 1:1 for permanent conversion of forested wetlands to herbaceous emergent wetlands. Wetland mitigation can include wetland restoration, establishment, enhancement (including restoration or enhancement of upland forested buffers), and/or wetland preservation, unless the Corps determines in writing that some other form of mitigation would be more appropriate and provides a project-specific waiver of this requirement. Since the likelihood of success is greater and the impacts are reduced, wetland restoration should be the first compensatory mitigation option considered.

b. Stream mitigation, focusing on functional replacement, will generally be required for any project that involves losses of more than 200 linear feet to stream channels and rivers through the use of mitigation banks, in-lieu-fee programs, or by the permittee as required by special condition of the MDSPGP-4 and/or the State authorization. Stream mitigation can include stream restoration, establishment, enhancement (including enhancement of riparian buffers), and stream preservation. Riparian buffer areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat impact concerns. The need to require mitigation for impacts to open waters will be determined on a case-by-case basis.

c. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu-fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee.

d. For permittee-responsible mitigation, the special conditions of the MDSPGP-4 verification must clearly indicate the party or parties responsible for the implementation, performance, and long-term management of the compensatory mitigation project.

3. **Work in Wetlands:** Heavy equipment working in wetlands shall be avoided if possible and, if required, soil and vegetation disturbance shall be minimized by using techniques such as timber mats, geotextile fabric, and vehicles with low-pressure tires. Disturbed areas in wetlands shall be restored to preconstruction contours and elevations upon completion of the work.

4. **Temporary Fill and Mats:** Temporary fill and the use of mats are both considered a discharge of fill material and must be included in the quantification of impact area authorized by the MDSPGP-4. Temporary fill (e.g., access roads, cofferdams) in waters and wetlands authorized by the MDSPGP-4 shall be properly stabilized during use to prevent erosion. Temporary fill in wetlands shall be placed on geotextile fabric laid on the existing wetland grade. Upon completion of the work, all temporary fills shall be disposed of at an upland site, suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas shall be restored to their original, pre-construction contours and revegetated with native wetland species.

5. **Erosion and Sediment Control:** Adequate erosion and sediment control measures, practices, and devices, such as turbidity curtains in tidal waters, vegetated filter strips, geotextile silt fences, phased construction, or other devices or methods, shall be used to reduce erosion and retain sediment on-site during and after construction. These devices and methods shall be capable of (a) preventing erosion, (b) collecting sediment and suspended and floating materials, and (c) filtering fine sediment. Erosion and sediment control devices shall be removed when the work is complete and the site has been successfully stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date. In-stream work shall be conducted "in the dry" whenever practicable. This should be accomplished using stream diversion devices, other than earthen or stone cofferdams. In addition, work in waters of the United States should be performed during periods of low-flow or no-flow, whenever practicable.

6. **Aquatic Life Movements:** No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through, or spawn/nursery within the area (e.g., anadromous/catadromous fish); unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. A low flow channel must be maintained through any discharges placed for armoring across the channel so as to not impede flow in the waterway and/or not to block or impede the movements of anadromous, estuarine, and resident fish. Permanent culvert or pipes placed in streams must be depressed in accordance with the State of Maryland regulations. If depression of the culvert is not practicable, the applicant must submit a narrative, along with their application, documenting measures evaluated to minimize disruption of the movement of aquatic life, as well as specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipe/culvert. Options that need to be considered include the use of a bridge, bottomless pipe, partial depression, or other measures to provide for the movement of aquatic organisms. The documentation must also include photographs documenting site conditions. The applicant may find it helpful to contact their regional fishery agency for recommendations about the measures to be taken to allow for fish passage

7. Water Crossings:

a. All temporary and permanent crossings of waterbodies shall be suitably bridged, culverted, or otherwise constructed to withstand and to prevent the restriction of high flows and tidal flows; to maintain existing low flows; and to prevent the obstruction of movement by aquatic life indigenous to the water body, including anadromous, estuarine, and resident fish species.

b. All water crossings (e.g., utility lines and road crossings) must be constructed roughly perpendicular to waters of the United States, including streams and wetlands. Where a utility line or access road is constructed parallel to a stream corridor, an undisturbed buffer shall be maintained between the utility line/access road and the waterway to avoid or minimize potential future impacts to waters of the United States. These potential impacts would include such issues as sewer line leaks or failures, future stream channel meandering, stream bank instability and failure, and right-of-way maintenance.

c. Water crossings must be constructed "in the dry" whenever practicable. This should be accomplished by using stream diversion devices other than earthen or stone cofferdams.

d. Equipment shall cross streams only at suitably constructed permanent or temporary crossings.

e. Temporary structures and fills shall be removed and the area restored to its original contours and elevations, or to the conditions specified in the approved plans. The temporary structures and the areas of fill associated with these structures must be included in the total waterway/wetlands impacts.

8. Discharge of Pollutants: All activities that are authorized under the MDSPGP-4 and that involve any discharge or relocation of pollutants into waters of the United States shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. 1251 et. Seq.), and applicable State and local laws and regulations. No discharge of dredged or fill material in association with this authorization may consist of unsuitable material such as trash, debris, car bodies, asphalt, etc.

9. Spawning Areas: Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill materials in fish and shellfish spawning or nursery areas during spawning seasons, shall be avoided. Impacts to these areas shall be avoided or minimized to the maximum extent practicable during all other times of year. Activities that result in the physical destruction (e.g., through excavation, dredging, mining, fill, or significant downstream sedimentation by substantial turbidity) of an important spawning/nursery area are not authorized by this MDSPGP-4.

10. Waterfowl Breeding and Wintering Areas: Discharges into breeding and wintering areas for migratory waterfowl shall be avoided to the maximum extent practicable.

11. Environmental Values: The permittee shall make every reasonable effort to construct or operate the work authorized under the MDSPGP-4 in a manner that maintains as many environmental values as practicable, and that avoids or minimizes any adverse impacts on existing fish, wildlife, and natural environmental values.

12. Management of Water Flows: To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

13. Water Supply Intakes: No discharge of dredged or fill material may occur in the proximity of a public water supply intake.

D. Procedural Conditions:

1. **Inspections:** The permittee shall permit the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary to ensure that the work is being performed in accordance with the terms and conditions of the MDSPGP-4. The District Engineer may also require post-construction engineering drawings (as-built plans) for completed work, and post-dredging survey drawings for any dredging work.

2. **Compliance Certification:** Every permittee who receives a written MDSPGP-4 verification shall submit a signed Compliance Certification Form within 60 days following completion of the authorized work and any required mitigation (but not mitigation monitoring, which requires separate submittals). Failure to submit the Compliance Certification Form by the permittee could result in the Corps taking appropriate non-compliance enforcement action against the permit holder. The Corps will provide a blank copy of the Compliance Certification Form to the permittee with the MDSPGP-4 verification. The completed form will include the following:

a. A statement that the authorized work either was or was not done in accordance with the MDSPGP-4 verification, including any general and/or specific conditions. If the activity was not done in accordance with the MDSPGP-4 verification, including any general and/or specific conditions and requirements, the permittee shall describe the specifics of the deviation from the authorized activity.

b. A statement that any required mitigation was or was not completed in accordance with the permit conditions. If the mitigation was not completed in accordance with the permit conditions, the permittee shall describe the specifics of the deviation from the permit conditions.

c. The signature of the permittee, certifying the completion of the work and compensatory mitigation.

After the project is completed, the certification shall be sent to the Baltimore District at the following address:

U. S. Army Corps of Engineers
Baltimore District
Attn: CENAB-OP-R
P. O. Box 1715
Baltimore, Maryland 21203-1715

3. **Transfer of MDSPGP-4 Verifications:** If the permittee sells the property associated with a MDSPGP-4 verification, the permittee may transfer the MDSPGP-4 verification to the new owner by submitting a letter to the Baltimore District Corps of Engineers office to validate the transfer. A copy of the MDSPGP-4 verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this MDSPGP-4 are still in existence at the time the property is transferred, the terms and conditions of this MDSPGP-4, including special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this MDSPGP-4 permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

4. **Maintenance:** The permittee shall properly maintain the work or structure authorized by the MDSPGP-4 in good condition and in compliance with the terms and conditions of the MDSPGP-4, including maintenance to ensure public safety.

5. **Property Rights:** The MDSPGP-4 does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.

6. Modification, Suspension and Revocation: The MDSPGP-4, or any verification under it, may be either modified, suspended, or revoked, in whole or in part, pursuant to DA policies and procedures and any such action shall not be the basis for any claim for damages against the United States.

7. Restoration: The permittee, upon receipt of a notice of revocation of authorization under the MDSPGP-4, shall restore the wetland or waterway to its former condition, without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.

8. Special Conditions: The Corps may impose special conditions on any project authorized under the MDSPGP-4, in cases where the Corps determines that special conditions are necessary to avoid or minimize adverse effects on the environment or on any other factor of the public interest. Failure to comply with all conditions of the authorization/ verification, including special conditions, will constitute a permit violation/unauthorized work and may subject the permittee to criminal, civil, or administrative penalties, and/or restoration.

9. False or Incomplete Information: In granting authorization pursuant to this permit, the Baltimore District will rely upon information and data provided by the permittee. If the project is verified by the Corps or MDE under the MDSPGP-4 and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the MDSPGP-4 verification may be revoked, in whole or in part, and/or the United States may institute appropriate legal proceedings.

10. Compliance: Any activity performed in waters of the United States, including wetlands and navigable waters, that is not in compliance with all the terms and conditions of the MDSPGP-4, which includes the MDSPGP-4 authorized activity activity-specific requirements, constitutes unauthorized work and is subject to an enforcement action by the Corps or the EPA. Furthermore, the MDSPGP-4 does not delegate any Section 404 enforcement or regulatory authority. Unauthorized work in waters of the United States, including wetlands and navigable waters, is subject to one or more of the following responses by EPA and/or the Corps:

- a. A Cease and Desist order and/or an administrative compliance order requiring remedial action.
- b. Initiation and assessment of a Class I administrative penalty order pursuant to Section 309(g) of the CWA.
- c. Initiation and assessment of a Class II administrative penalty for continuing violation pursuant to Section 309(g) of the CWA.
- d. Referral of the case to the U. S. Attorney with a recommendation for a civil or criminal action.
- e. If the Corps determines that an after-the-fact application is appropriate, it will be reviewed following the appropriate procedures.
- f. Any other appropriate response.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

Operations Division

MDSPGP-4 PERMIT COMPLIANCE CERTIFICATION FORM (10/1/11)

Corps Permit Tracking No. _____ Category & Activity Number _____

Project Name _____ Applicant Name _____

Waterway _____ County _____

Dear Permittee:

In accordance with the compliance certification condition of your MDSPGP-4 authorization, you are required upon completion of all permitted work, or if mitigation/compensation is required, within 60 days following completion of the authorized work and any required mitigation (but not the mitigation monitoring, which requires separate submittals), to complete and sign this certification form and return it to the Corps of Engineers, Baltimore District, ATTN: CENAB-OP-R, P.O. Box 1715, Baltimore, Maryland 21203-1715.

Please note that the permitted activity is subject to compliance inspections by U.S. Army Corps of Engineers representatives. As a condition of this permit, failure to return this notification form, provide the required information below, or to perform the authorized work in compliance with the permit, can result in suspension, modification or revocation of your authorization in accordance with 33 CFR Part 325.7 and/or administrative, civil, and/or criminal penalties, in accordance with 33 CFR part 326.

Please provide the following information:

1. Date authorized work commenced: _____ 2. Date authorized work completed: _____

3. Was all work and any required mitigation, completed in accordance with your MDSPGP-4 authorization, including all general and/or specific conditions? YES ___ NO ___

4. For Category A projects involving pile driving activities that are within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels less than 6 parts per thousand (See Appendix B of the MDSPGP-4), please indicate the pile driving method that was used for the authorized work:

- _____ (a) Piles must be installed in-the-dry during low water;
- _____ (b) Piles must be drilled and pinned to ledge;
- _____ (c) Vibratory hammers must be used to install any size and quantity of wood, concrete, or steel pilings;
- _____ (d) Impact hammers must be limited to one hammer and <50 piles installed per day with the following: wood piles of any size; concrete piles <18-inches diameter; steel piles <12-inch diameter if the hammer is <3,000 pounds and a wood cushion is used between the hammer and steel pile;
- _____ (e) Approved pile driving methods that will allow noise level thresholds to be met.
Describe: _____

5. Explain in detail any deviations to the authorized work and/or mitigation (use additional sheets if necessary)

6. Was mitigation accomplished through a contribution to the Maryland Nontidal Wetlands Compensation Fund?
YES _____ NO _____ (if NO, please complete Nos. 6 and 7 below).

7. Wetland Mitigation: Required? YES _____ NO _____ Required Completion Date _____
Wetland Mitigation Completed? YES _____ NO _____ Mitigation Monitoring Reports Required? YES _____ NO _____

8. Please attach labeled photographs showing completed work including mitigation area(s).

I hereby certify that, except as noted above, that all work, including mitigation, has been completed in accordance with the terms and conditions, including special conditions of the above referenced permit.

Signature of Permittee Date

Address: _____

Telephone: _____

Signature of Contractor/Agent Date

Address: _____

Telephone: _____

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION
AUTHORIZATION TO PROCEED

AUTHORIZATION NUMBER: 201361510/13-NT-3287

EFFECTIVE DATE: December 2, 2013

EXPIRATION DATE: December 01, 2016

AUTHORIZED PERSON: Maryland Transit Administration
6 Saint Paul St
Baltimore, Maryland 21202
Attn: Wane-Jang Lin



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 OF AUTHORIZATIONS, Maryland Transit Administration ("AUTHORIZED PERSON"), IS HEREBY AUTHORIZED BY THE WATER MANAGEMENT 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 December 2, 2013 ("APPROVED PLAN") AND PREPARED BY Maryland Transit Administration AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

Repair and maintenance work to MTA Bridge No. 65.35. Work includes: spot cleaning and painting, replace deteriorated parts, fill voided areas at the base of abutments and wingwalls, and repair works on the bridge. The project impacts 10 linear feet (32 square feet) of stream. The project is located approximately 1.5 miles northwest in a straight line distance from the intersection of MD-26 and MD-194 in Frederick County.

MD Grid Coordinates 199743 x 366199

A handwritten signature in cursive script that reads "William Seiger".

William Seiger, Chief
Waterway Construction Division

Attachments: Conditions of Authorization
MDSPGP4- Cat A-b (1)

cc: WMA Compliance Division w/ file (Frederick County)

THE FOLLOWING CONDITIONS OF AUTHORIZATION APPLY TO ALL ACTIVITIES AUTHORIZED BY
AUTHORIZATION NUMBER 13-NT-3287/201361510

Page 2 of 3

1. **Validity:** Authorization is valid only for use by Authorized Person. Authorization 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 Authorization.
2. **Initiation of Work, Modifications and Extension of Term:** Authorized Person shall initiate authorized activities with two (2) years of the Effective Date of this Authorization or the Authorization shall expire. Authorized Person may submit written requests to the Administration for (a) extension of the period for initiation of work, (b) modification of Authorization, including the Approved Plan, or, (c) not later than 45 days prior to Expiration Date, an extension of the 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.
3. **Responsibility and Compliance:** Authorized Person is fully responsible for all work performed and activities authorized by this Authorization shall be performed in compliance with this Authorization and Approved Plan. Authorized Person agrees that a copy of the Authorization and Approved Plan shall be kept at the construction site and provided to its employees, agents and contractors. A person (including Authorized Person, its employees, agents or contractors) who violates or fails to comply with the terms and conditions of this Authorization, 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 Authorized Person, its employees, agents or contractors fail to comply with this Authorization or Approved Plan, the Administration may, in its discretion, issue an administrative order requiring Authorized Person, its employees, agents and contractors to cease and desist any activities which violate this Authorization, or the Administration may take any other enforcement action available to it by law, including filing civil or criminal charges.
5. **Suspension or Revocation:** Authorization may be suspended or revoked by the Administration, after notice of opportunity for a hearing, if Authorized Person: (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 Authorization; (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 Authorization and new information, changes in site conditions, or amended regulatory requirements necessitate revocation or suspension.
6. **Other Approvals:** Authorization 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:** Authorized Person 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. Authorized Person shall provide necessary assistance to effectively and safely conduct such inspections and evaluations.
8. **Inspection Notification:** Authorized Person 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, Authorized Person shall call 301-689-1480. For Carroll, Frederick, Howard, Montgomery, and Prince George's counties, Authorized Person shall call 301-665-2850. For Baltimore City, Anne Arundel, Baltimore, Calvert, Charles, and St. Mary's, Authorized Person shall call 410-537-3510. For Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, Somerset, Talbot, Wicomico and Worcester, Authorized Person shall call 410-901-4020. If Authorization is for a project that is part of a mining site, please contact the Land Management 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:** Authorized Person 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. Federally Mandated State Authorizations:

Water Quality Certification: Water Quality Certification is granted for this project provided that all work is performed in accordance with the authorized project description and associated conditions.

Coastal Zone Consistency: This Authorization constitutes official notification that authorized activities are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the Federal Coastal Zone Management Act of 1972, as amended. Activities within the following counties are not subject to this requirement: Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington.

11. **Best Management Practices During Construction:** Authorized Person, its employees, agents and contractors shall conduct authorized activities in a manner consistent with the Best Management Practices specified by the Administration.
12. **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.
13. **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.
14. **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, Authorized Person, 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.
15. **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.
16. **Instream Construction Prohibition:**
 - No instream construction is to occur under this Authorization;
 - 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): Monocacy River is a Use IV waterway; in-stream work may not be conducted from March 1 through May 31 inclusive, of any year.
17. **Instream Blasting:** Authorized Person shall obtain prior written approval from the Administration before blasting or using explosives in the stream channel.
18. **Minimum Disturbance:** Any disturbance of stream banks, channel bottom, wetlands, and wetlands buffer authorized by this Authorization 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.
19. **Restoration of Construction Site:** Authorized Person 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 Authorized Person as directed by the Administration.

U.S. ARMY CORPS OF ENGINEERS AUTHORIZATION

The U.S. Army Corps of Engineers has reviewed this activity and has granted authorization under the Maryland State Programmatic General Permit (MDSPGP-4), as a Category A activity. The terms and conditions of the MDSPGP-4, as outlined in the enclosed attachment, should be followed when performing the authorized work.

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION
AUTHORIZATION TO PROCEED

AUTHORIZATION NUMBER: 201361511/13-NT-3288

EFFECTIVE DATE: December 2, 2013

EXPIRATION DATE: December 1, 2016

AUTHORIZED PERSON: Maryland Transit Administration
6 Saint Paul St
Baltimore, Maryland 21202
Attn: Wane-Jang Lin



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 OF AUTHORIZATIONS, Maryland Transit Administration ("AUTHORIZED PERSON"), IS HEREBY AUTHORIZED BY THE WATER MANAGEMENT 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 December 2, 2013 ("APPROVED PLAN") AND PREPARED BY Maryland Transit Administration AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

Maintain and Repair to existing MTA bridge structure 65.40. Work includes: cleaning and painting structural steel throughout the bridge, repair and seal cracks and spalls, remove debris from superstructure and abutment bridge seats, place riprap in front of a curtain walls. The project impacts 40 linear feet (221 square feet) of stream. The project is located at 1.56 miles northwest in straight line distance from the intersection of MD-26 and MD-194 in Frederick County.

MD Grid Coordinates 199515 x 366107

A handwritten signature in black ink that reads "William Seiger".

William Seiger, Chief
Waterway Construction Division

Attachments: Conditions of Authorization
MDSPGP4- Cat A-b(1)

cc: WMA Compliance Division w/ file (Frederick County)

THE FOLLOWING CONDITIONS OF AUTHORIZATION APPLY TO ALL ACTIVITIES AUTHORIZED BY
AUTHORIZATION NUMBER 13-NT-3288/201361511

Page 2 of 3

1. **Validity:** Authorization is valid only for use by Authorized Person. Authorization 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 Authorization.
2. **Initiation of Work, Modifications and Extension of Term:** Authorized Person shall initiate authorized activities with two (2) years of the Effective Date of this Authorization or the Authorization shall expire. Authorized Person may submit written requests to the Administration for (a) extension of the period for initiation of work, (b) modification of Authorization, including the Approved Plan, or, (c) not later than 45 days prior to Expiration Date, an extension of the 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.
3. **Responsibility and Compliance:** Authorized Person is fully responsible for all work performed and activities authorized by this Authorization shall be performed in compliance with this Authorization and Approved Plan. Authorized Person agrees that a copy of the Authorization and Approved Plan shall be kept at the construction site and provided to its employees, agents and contractors. A person (including Authorized Person, its employees, agents or contractors) who violates or fails to comply with the terms and conditions of this Authorization, 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 Authorized Person, its employees, agents or contractors fail to comply with this Authorization or Approved Plan, the Administration may, in its discretion, issue an administrative order requiring Authorized Person, its employees, agents and contractors to cease and desist any activities which violate this Authorization, or the Administration may take any other enforcement action available to it by law, including filing civil or criminal charges.
5. **Suspension or Revocation:** Authorization may be suspended or revoked by the Administration, after notice of opportunity for a hearing, if Authorized Person: (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 Authorization; (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 Authorization and new information, changes in site conditions, or amended regulatory requirements necessitate revocation or suspension.
6. **Other Approvals:** Authorization 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:** Authorized Person 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. Authorized Person shall provide necessary assistance to effectively and safely conduct such inspections and evaluations.
8. **Inspection Notification:** Authorized Person 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, Authorized Person shall call 301-689-1480. For Carroll, Frederick, Howard, Montgomery, and Prince George's counties, Authorized Person shall call 301-665-2850. For Baltimore City, Anne Arundel, Baltimore, Calvert, Charles, and St. Mary's, Authorized Person shall call 410-537-3510. For Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, Somerset, Talbot, Wicomico and Worcester, Authorized Person shall call 410-901-4020. If Authorization is for a project that is part of a mining site, please contact the Land Management 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:** Authorized Person 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. Federally Mandated State Authorizations:

- Water Quality Certification:** Water Quality Certification is granted for this project provided that all work is performed in accordance with the authorized project description and associated conditions.
- Coastal Zone Consistency:** This Authorization constitutes official notification that authorized activities are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the Federal Coastal Zone Management Act of 1972, as amended. Activities within the following counties are not subject to this requirement: Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington.
11. **Best Management Practices During Construction:** Authorized Person, its employees, agents and contractors shall conduct authorized activities in a manner consistent with the Best Management Practices specified by the Administration.
12. **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.
13. **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.
14. **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, Authorized Person, 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.
15. **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.
16. **Instream Construction Prohibition:**
- No instream construction is to occur under this Authorization;
- 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): Tuscarora Creek is a Use III waterway; in-stream work may not be conducted from October 1 through April 30 inclusive, of any year.
17. **Instream Blasting:** Authorized Person shall obtain prior written approval from the Administration before blasting or using explosives in the stream channel.
18. **Minimum Disturbance:** Any disturbance of stream banks, channel bottom, wetlands, and wetlands buffer authorized by this Authorization 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.
19. **Restoration of Construction Site:** Authorized Person 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 Authorized Person as directed by the Administration.

U.S. ARMY CORPS OF ENGINEERS AUTHORIZATION

The U.S. Army Corps of Engineers has reviewed this activity and has granted authorization under the Maryland State Programmatic General Permit (MDSPGP-4), as a Category A activity. The terms and conditions of the MDSPGP-4, as outlined in the enclosed attachment, should be followed when performing the authorized work.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

IMPORTANT INFORMATION ABOUT YOUR PROJECT

Corps Permit Tracking No.: 201361511/ 13-NT-3288 Date: December 03, 2013
Permittee/Project Name: MTA/Taneytown-Walkersville/ Frederick Freight MDSPGP-4 Category and Activity No.: Cat A-b (1)

Dear Applicant:

The U. S. Army Corps of Engineers, Baltimore District, has determined that the proposed work meets the enclosed terms and conditions of the Maryland State Programmatic General Permit-4 (MDSPGP-4). A requisite of permit issuance requires that the applicant comply with any specific terms and conditions associated with the authorized project (conditions enclosed). This MDSPGP-4 verification is provided pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. If any of the information contained in your application and/or plans is later found to be in error, the MDSPGP-4 authorization for your project may be modified, suspended, or revoked.

As a condition of the MDSPGP-4 authorization, you, the permittee, are required to complete and sign the enclosed Compliance Self-Certification Form regarding the completed work and any required mitigation. The signed form should be returned to the Regulatory Branch at the above address within 60 days following completion of the authorized work and any required mitigation.

Please be aware that the terms and conditions of this permit will continue to be binding on the new property owner(s) if structures or work authorized by this permit exist at the time of ownership transfer of the associated property. Although the construction period for work authorized by this MDSPGP-4 is finite, the permit itself, with its limitations, does not expire. To validate the transfer of this permit and the legal responsibility to comply with its terms and conditions, the transferee (new owner) must provide the Corps a mailing address and telephone number along with their signature and date in the space provided below and mail a copy to the above address.

Your MDSPGP-4 authorization is valid until September 30, 2016 unless the permit is modified, reissued, or revoked. You must remain informed of the changes to the MDSPGP-4. When changes to the MDSPGP-4 occur, a public notice announcing the changes will be issued. Be advised that you have 12 months from the effective date of the MDSPGP-4's expiration, modification or revocation to complete the work under the present terms and conditions provided you have commenced construction or are under contract to commence construction of the authorized work.

In order for this authorization to be valid, you must obtain all required Federal, State, and local permits.

William P Seib

William P. Seib
Chief, Regulatory Branch

TRANSFeree SIGNATURE

DATE AREA CODE / TELEPHONE NO.

PRINTED NAME

ADDRESS



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

Effective October 1, 2011

201361511/ 13-NT-3288
Corps Permit Number

CENAB-OP-R-MDSPGP-4 (MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-4)

TO WHOM IT MAY CONCERN:

Upon the recommendation of the Chief of Engineers, and under the provisions of Section 404 of the Clean Water Act, as amended, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Secretary of the Army hereby authorizes the discharge of dredged or fill material or the placement of structures into Waters of the United States, including wetlands and navigable waters. These discharges and structures must comply with all the terms and conditions identified in this MDSPGP-4. It has been determined that the project qualifies for the MDSPGP-4. Accordingly, you are authorized to undertake the activity pursuant to:

1. Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403); and/or
2. Section 404 of the Clean Water Act (33 U.S.C. 1344).

You are authorized to perform work in accordance with the terms and conditions specified in Section VII of the MDSPGP-4 effective on October 1, 2011.

VII. General Conditions: To qualify for MDSPGP-4 authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any activity-specific conditions in the MDSPGP-4 category list and any case-specific special conditions imposed by the Corps.

A. General Requirements:

1. **Other Permits:** Authorization under the MDSPGP-4 does not obviate the need to obtain other Federal, State, or local authorizations required by law.
2. **Geographic Jurisdiction:** This MDSPGP-4 will authorize work undertaken within the geographic limits of the State of Maryland under the regulatory jurisdiction of the Baltimore District.
3. **Applicability:** Applicability of the MDSPGP-4 shall be reviewed with reference to the Corps definition of waters of the United States, including wetlands, and navigable waters of the United States. Applicants are responsible for delineating boundaries of all waters of the United States, including wetland boundaries. The delineation of wetland boundaries shall be accomplished in accordance with the current Federal manual for identifying jurisdictional wetlands and appropriate guidance issued by the Corps of Engineers.
4. **Minimal Effects:** Projects authorized by the MDSPGP-4 shall have no more than minimal individual and cumulative adverse environmental effects.
5. **Discretionary Authority:** Notwithstanding compliance with the terms and conditions of the MDSPGP-4, the Corps retains discretionary authority to require an alternate Corps permit review for any project under all categories of the MDSPGP-4 based on concerns for the aquatic environment or for any other factor of the public interest. This authority may be invoked on a case-by-case basis during the review process for Category B activities whenever the Corps determines that, based on the concerns stated above, the potential consequences of the proposed project warrant individual review. In some rare instances, the Corps may have concerns for the aquatic environment or for any other public interest factor pertaining to a specific proposed project, which has already received a case-specific verification as a Category A activity. In order to evaluate this project under an alternate Corps permit review, the verification must be suspended in accordance with Section VIII.E of the MDSPGP-4.

Whenever the Corps notifies an applicant that an alternate Corps permit may be required, authorization under the MDSPGP-4 is voided. No work may be conducted until the individual Corps permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under the MDSPGP-4.

6. **Single and Complete Projects:** The MDSPGP-4 shall not be used for piecemeal work and shall be applied to single and complete projects, including maintenance activities. For purposes of this MDSPGP-4, a single and complete project means the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers and which has independent utility. All components of a project, including all attendant features both temporary and permanent, shall be reviewed together as constituting one single and complete project. All planned phases of multi-phased projects (e.g., subdivisions should include all work such as roads, utilities, and lot development) shall be applied for and reviewed together as constituting one single and complete project. The MDSPGP-4 shall not be used for any activity or portion of a project (e.g., a pier or boat ramp), that is part of, or dependent on, an overall project (e.g., the dredging of a main navigation channel or a spur channel), for which an individual permit or some other alternate Corps permit is required.

7. **Use of Multiple MDSPGP-4 Activities:** More than one MDSPGP-4 activity may be used to authorize a single and complete project. However, the specific requirements, including all activity-specific requirements and impact thresholds, must be met for each MDSPGP-4 activity and the total extent of project impacts must not exceed the acreage and/or linear foot limit of the MDSPGP-4 activity with the highest specified acreage and/or linear foot limit. For example, if a road crossing is authorized under Category A of Section IV.B.1.(d)(1) with an associated nontidal bank stabilization authorized under Section IV.B.1.f.(4)(a), the maximum total impact limits to nontidal waters of the United States for the single and complete project may not exceed 10,000 square feet in total area and/or 500 linear feet in total length. The road crossing and nontidal bank stabilization activities must still meet all Category A activity-specific requirements and impact thresholds.

A single and complete project with multiple impacts, that may be eligible for authorization under a Category A and a Category B activity, requires an application submittal to the Corps and review under the MDSPGP-4 Category B verification procedures. All specific requirements, including the activity-specific requirements and impact thresholds of the Category A activity and the Category B activity must be met and the total extent of project impacts must not exceed to total acreage and/or linear foot limit of the MDSPGP-4 activity with the highest specified acreage and/or linear foot limit. For example, if a road crossing is authorized under Category A of Section IV.B.1.(d)(1) with an associated nontidal bank stabilization authorized under Section IV.B.f.(4)(b), the maximum total impact limits to waters of the United States for the single and complete project may not exceed 1/2 acre (21,780 square feet) in total area and/or 2,000 linear feet in total length. The road crossing activity must meet the Category A activity-specific requirements and impact thresholds, and the nontidal bank stabilization activity must meet the Category B activity-specific requirements and impact thresholds.

8. **Permit On-Site:** The permittee shall ensure that a copy of the MDSPGP-4 and the accompanying authorization letter are at the work site at all times. These copies must be made available to any regulatory representative upon request. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be expected to comply with all conditions of any general permit authorization.

9. **Authorized Activities in Navigable Waters Subject to Section 10 of the Rivers and Harbors Act of 1899:**

a. If future operations by the United States require removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable water, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

b. The permittee acknowledges the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels and/or ice flows within the waterway. The issuance of this permit does not relieve the permittee from taking all proper steps to ensure the integrity of the structure permitted herein and the safety of vessels moored thereto from damage by wave wash and/or ice flows, and the permittee shall not hold the United States liable for such damage.

c. The permittee must install and maintain, at his/her expense any safety lights, markers, and/or signals prescribed by the USCG, through regulations or otherwise, on the authorized facilities and/or structures. The permittee must contact the Commander (AOWW), Fifth Coast Guard District, Federal Building, 431 Crawford 3

Street, Portsmouth, Virginia, 23704, to ascertain the need for obstruction lights. Prior to commencing the construction or installation of an authorized structure in navigable waters of the United States, the permittee must submit a "Private Aids to Navigation Application" to the Commander of the USCG.

d. The permittee must provide location coordinates of the authorized structures, including minimum depth and other pertinent information to the USCG and request that a Local Notice to Mariners is issued regarding the authorized work.

10. **For Aerial Transmission Lines Across Navigable Waters:** The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the USCG for new fixed bridges, in the vicinity of the proposed aerial transmission line. These clearances are based on the low point of the line under conditions producing the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code:

NOMINAL SYSTEM VOLTAGE (kV)	Minimum additional clearance (ft.) above clearance required for bridges.
115 and below	20
138	22
161	24
230	26
350	30
500	35
700	42
750-765	45

a. Clearances for communication lines, stream gauging cables, ferry cables, and other aerial crossings must be a minimum of ten feet above clearances required for bridges, unless specifically authorized otherwise by the District Engineer.

b. Corps Regulation ER 1110-2-4401 prescribes minimum vertical clearances for power communication lines over Corps lake projects. In instances where both the National Electrical Safety Code requirements and ER 1110-2-4401 apply, the greater minimum clearance is required.

B. National Concern:

1. **Historic Properties:** Any activity authorized by the MDSPGP-4 shall comply with Section 106 of the National Historic Preservation Act. Maryland Department of the Environment, in cooperation with the Maryland Historic Preservation Office, shall conduct an initial review and notify the Corps if any archaeological or other cultural resources are in the vicinity of the project. The Corps may require applicants to perform a survey of archaeological and historical resources in the project area. The Corps shall determine whether National Historic Preservation Act Section 106 consultation is required. The applicant must notify the Corps if they have knowledge that the activity may affect any historic properties listed or eligible for listing, or that the applicant has reason to believe may be eligible for listing on the National Register of Historic Places. If the permittee discovers any previously unknown archaeological or other cultural resource while accomplishing the work authorized by the MDSPGP-4, the permittee shall immediately notify the Corps of what has been found and stop work in the permit area until the required coordination has been completed. The permittee shall not begin or continue work until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied.

and that the activity may proceed. Information on the location and existence of historical resources can be obtained from the MHT, Office of Preservation Services, and the National Register of Historic Places.

2. **Tribal Rights:** No activity or its operation may impair reserved tribal rights, including but not limited to, reserved water rights and treaty fishing and hunting rights.

3. **National Lands:** Activities authorized by the MDSPGP-4 shall not impinge upon the value of any Federal land, including but not limited to, National Wildlife Refuges, National Forests, National Parks, National Marine Sanctuaries, or any area administered by the FWS, U.S. Forest Service, or National Park Service (e.g., Assateague Island National Seashore).

4. **Endangered Species:** The MDSPGP-4 does not authorize any activity that may directly or indirectly affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal ESA; or which may directly or indirectly destroy or adversely modify the critical habitat of such species unless and until appropriate coordination with the applicable resource agency(s) is complete and all such issues are resolved in accordance with the applicable regulations and procedures. MDE, in cooperation with MD DNR, shall conduct an initial review and notify the Corps and FWS or NMFS if any Federally listed species or critical habitat is likely to be in the vicinity of the project. The Corps shall determine if consultation with FWS or NMFS is required under Section 7 of the ESA. If consultation is required, the applicant, after notification, shall not begin or continue work until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is eligible for authorization. Information on the location of threatened and endangered species and their critical habitat can be obtained from FWS and NMFS. The Corps will be initiating consultation under the Endangered Species Act on this MDSPGP-4 and any conditions from that consultation will be inserted into the MDSPGP-4.

National Marine Fisheries Service – Endangered Species Act Requirements:

a. **Interactions with National Marine Fisheries Service Federally Threatened or Endangered Species:** Any interaction between a sea turtle or any species listed now or in the future under Federal law as a threatened or endangered species (“listed species”) (e.g., North Atlantic right whale, humpback whale, shortnose sturgeon) and the vessels associated with the project must be reported to the NMFS as follows: If the animal appears alive and uninjured (i.e., breathing normally, no visible wounds, movement uninhibited), the permittee or its representative must report the incident to the NMFS Northeast Region Marine Mammal and Sea Turtle Stranding and Entanglement Hotline at (866) 755-6622 within 24 hours of returning from the trip on which they made the discovery. If the animal requires assistance, the call to the hotline must be made immediately. If the animal appears to be injured (i.e. bleeding, gasping for air, etc.) or dead, the permittee or its representative must also immediately call the hotline so the appropriate rehabilitation or stranding network representative can be contacted. The applicant shall also notify the Corps of all correspondence and interaction with the NMFS within two calendar days. Additional information about any Federally threatened or endangered species may be obtained from the attached fact sheet or online at http://www.nero.noaa.gov/prot_res/stranding/SpeciesOverview.html and at: http://www.nero.noaa.gov/prot_res/esp/. An interaction is defined as an entanglement or capture of a listed species or a strike/direct contact between vessels or equipment used for the project and a listed species.

b. **Vessel Buffer:** When listed species are sighted, vessels must attempt to maintain a distance of 50 yards (150 feet) or greater between the animal and the vessel whenever possible. State and Federal regulations prohibit approaching a right whale within a 500 yard (1,500 foot) buffer zone. Any vessel finding itself within the 500 yard (1,500 foot) buffer zone created by a surfacing right whale must depart immediately at a safe, slow speed. If other listed species are detected, vessels will reduce their speeds to 10 knots or to the maximum extent practicable to ensure human safety. If listed species are sighted off of a moving dredge, intentional approaches within 100 yards (300 feet) of the animal must be avoided. Vessels must reduce speeds to 4 knots or the lowest speed practicable to ensure human safety. Any interactions must be reported to the NMFS.

c. **Best Management Practices Applicable to Category A Activities Within Tidal Waters Having Salinity Levels Less Than 6 Parts Per Thousand (ppt) (See Appendix B):**

(i) **Pile Driving:** For the protection of listed species within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels <6 ppt, pile driving methods must maintain noise level thresholds not to exceed 187dB SEL re 1µPa or 206dB peak re 1µPa at a distance of >10m from the pile being installed; and for levels >155dB peak re 1µPa must not exceed 12 consecutive hours on any given day and a 12 hour

recovery period (i.e., in-water noise levels below 155dB peak re 1µPa) must be provided between work days. Pile driving construction must adhere to one of the following methods: (a) piles must be installed in-the-dry during low water; or (b) piles must be drilled and pinned to ledge; or (c) vibratory hammers must be used to install any size and quantity of wood, concrete, or steel pilings; or (d) impact hammers must be limited to one hammer and <50 piles installed per day with the following: wood piles of any size; concrete piles <18-inches diameter; steel piles <12-inch diameter if the hammer is <3,000 pounds and a wood cushion is used between the hammer and steel pile; or (e) approved pile driving methods that will allow noise level thresholds to be met.

(ii) **Sediment Disturbing Activities Time-of-Year Restriction:** Sediment disturbing activities, which includes pile driving activities, are prohibited during the period April 1 through June 30 within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels <6 ppt for the protection of shortnose sturgeon and early life stages in these waters.

5. **Essential Fish Habitat (EFH) and Fish and Wildlife Coordination Act:** Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires an EFH consultation with the NMFS for any action or proposed action authorized, funded, or undertaken by a Federal agency that may adversely affect EFH. Essential Fish Habitat has been defined by Congress as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." The designation and conservation of EFH seeks to minimize adverse effects on habitat caused by fishing and non-fishing activities. NMFS has determined that many of the MDSPGP-4 Category A activities are eligible for EFH general or programmatic concurrence and require no further EFH consultation. National Marine Fisheries Service, in consultation with the District, has determined that individual EFH consultation is needed for some projects potentially eligible for authorization under Category A of the MDSPGP-4 that may adversely affect EFH. The Corps will coordinate with NMFS as part of the Category B review procedures. EFH conservation recommendations made by NMFS will normally be included as a permit requirement by the Corps. If the EFH coordination and consultation requirements cannot be resolved under the MDSPGP-4 process, an alternate Corps permit review process is required for the project. The Corps will be initiating consultation under these authorities on this MDSPGP-4, and any conditions from that consultation to protect NOAA trust resources will be inserted into this MDSPGP-4.

6. **Wild and Scenic Rivers:** No activity is authorized under the MDSPGP-4 that occurs in a component of the National Wild and Scenic River System, including rivers officially designated by Congress as study rivers for possible inclusion in the system, while such rivers are in an official study status, unless the appropriate Federal agency, with direct management responsibility for the river, has determined in writing that the proposed activity will not adversely affect any National Wild and Scenic River, including study rivers. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U. S. Forest Service, Bureau of Land Management, or FWS).

7. **Federally Authorized Civil Works Projects:**

a. **Federal Navigation Projects:** The MDSPGP-4 does not authorize interference with any existing or proposed Federal navigation projects. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration. (See VILA.9.a.)

b. **Federal Navigation Channel Setbacks:** All activities must comply with the Baltimore District Minimum Setback Guidance for Structures Along Federally Authorized Channels. Please see the Baltimore District's Regulatory webpage to view this guidance: <http://www.nab.usace.army.mil/Wetlands%20Permits/publications.htm>.

c. **Other Federally Authorized Civil Work Projects (e.g., flood control, dams, and reservoirs):** The MDSPGP-4 does not authorize interference with any proposed or existing Federally authorized civil works project.

8. **Federal Liability:** In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes;
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest;
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
- d. Design or construction deficiencies associated with the permitted work; and
- e. Damage claims associated with any future modification, suspension or revocation of the MDSPGP-4 or any specific MDSPGP-4 verification.

9. **Navigation:** Projects authorized under the MDSPGP-4 shall not cause interference with navigation, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to projects authorized under the MDSPGP-4. Nothing in the MDSPGP-4 shall in any way restrict the District Engineer, U.S. Army Engineer District, Baltimore, from exercising his legal authority to protect the public interest in navigation or from exercising his authority under the Navigation Servitude of the United States. (See VII.B.8.)

10. **Fills Within 100-Year Floodplain:** The activity must comply with applicable Federal Emergency Management Agency approved State or local floodplain management requirements.

11. **Safety of Impoundment Structures:** To ensure that all impoundment structures are safely designed, the Corps may require non-Federal applicants to demonstrate that the structures comply with established State dam safety criteria or have been designed by qualified persons. The Corps may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

C. Minimization of Environmental Impacts:

1. **Avoidance and Minimization:** Discharges of dredged or fill material into waters of the United States and adverse impacts of such discharges on the aquatic ecosystem shall be avoided and minimized to the maximum extent practicable at the project site (i.e., on-site).

2. **Mitigation Standards:** A proposed compensatory mitigation proposal may be submitted with the application to expedite the process. The Corps will determine if the project is eligible for authorization under the MDSPGP-4 subject to the applicant's submittal of a compensatory mitigation proposal for stream and wetland impacts. Compensatory mitigation plans will generally include a requirement for the establishment, performance, maintenance, legal protection (e.g., conservation easements), and long-term management of the mitigation area. Applicants may propose the use of mitigation banks, in-lieu-fee programs, or separate permittee-responsible mitigation. In general, maintenance of previously authorized activities typically does not require mitigation. All mitigation must be in compliance with the 2008 Mitigation Rule (73 FR 70).

a. Wetland mitigation will generally be required for all permanent tidal or nontidal wetland losses either through the use of the State's tidal or nontidal programmatic wetland compensation, mitigation banks, in-lieu-fee programs, and/or by the permittee as required by special condition of the MDSPGP-4 or the State authorization. Generally, the minimum required wetland mitigation ratios will be as follows: 2:1 for forested and scrub-shrub wetlands; 1:1 for herbaceous emergent wetlands, and 1:1 for permanent conversion of forested wetlands to herbaceous emergent wetlands. Wetland mitigation can include wetland restoration, establishment, enhancement (including restoration or enhancement of upland forested buffers), and/or wetland preservation, unless the Corps determines in writing that some other form of mitigation would be more appropriate and provides a project-specific waiver of this requirement. Since the likelihood of success is greater and the impacts are reduced, wetland restoration should be the first compensatory mitigation option considered.

b. Stream mitigation, focusing on functional replacement, will generally be required for any project that involves losses of more than 200 linear feet to stream channels and rivers through the use of mitigation banks, in-lieu-fee programs, or by the permittee as required by special condition of the MDSPGP-4 and/or the State authorization. Stream mitigation can include stream restoration, establishment, enhancement (including enhancement of riparian buffers), and stream preservation. Riparian buffer areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat impact concerns. The need to require mitigation for impacts to open waters will be determined on a case-by-case basis.

c. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu-fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee.

d. For permittee-responsible mitigation, the special conditions of the MDSPGP-4 verification must clearly indicate the party or parties responsible for the implementation, performance, and long-term management of the compensatory mitigation project.

3. **Work In Wetlands:** Heavy equipment working in wetlands shall be avoided if possible and, if required, soil and vegetation disturbance shall be minimized by using techniques such as timber mats, geotextile fabric, and vehicles with low-pressure tires. Disturbed areas in wetlands shall be restored to preconstruction contours and elevations upon completion of the work.

4. **Temporary Fill and Mats:** Temporary fill and the use of mats are both considered a discharge of fill material and must be included in the quantification of impact area authorized by the MDSPGP-4. Temporary fill (e.g., access roads, cofferdams) in waters and wetlands authorized by the MDSPGP-4 shall be properly stabilized during use to prevent erosion. Temporary fill in wetlands shall be placed on geotextile fabric laid on the existing wetland grade. Upon completion of the work, all temporary fills shall be disposed of at an upland site, suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas shall be restored to their original, preconstruction contours and revegetated with native wetland species.

5. **Erosion and Sediment Control:** Adequate erosion and sediment control measures, practices, and devices, such as turbidity curtains in tidal waters, vegetated filter strips, geotextile silt fences, phased construction, or other devices or methods, shall be used to reduce erosion and retain sediment on-site during and after construction. These devices and methods shall be capable of (a) preventing erosion, (b) collecting sediment and suspended and floating materials, and (c) filtering fine sediment. Erosion and sediment control devices shall be removed when the work is complete and the site has been successfully stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date. In-stream work shall be conducted "in the dry" whenever practicable. This should be accomplished using stream diversion devices, other than earthen or stone cofferdams. In addition, work in waters of the United States should be performed during periods of low-flow or no-flow, whenever practicable.

6. **Aquatic Life Movements:** No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through, or spawn/nursery within the area (e.g., anadromous/catadromous fish); unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. A low flow channel must be maintained through any discharges placed for armoring across the channel so as to not impede flow in the waterway and/or not to block or impede the movements of anadromous, estuarine, and resident fish. Permanent culvert or pipes placed in streams must be depressed in accordance with the State of Maryland regulations. If depression of the culvert is not practicable, the applicant must submit a narrative, along with their application, documenting measures evaluated to minimize disruption of the movement of aquatic life, as well as specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipe/culvert. Options that need to be considered include the use of a bridge, bottomless pipe, partial depression, or other measures to provide for the movement of aquatic organisms. The documentation must also include photographs documenting site conditions. The applicant may find it helpful to contact their regional fishery agency for recommendations about the measures to be taken to allow for fish passage

7. Water Crossings:

a. All temporary and permanent crossings of waterbodies shall be suitably bridged, culverted, or otherwise constructed to withstand and to prevent the restriction of high flows and tidal flows; to maintain existing low flows; and to prevent the obstruction of movement by aquatic life indigenous to the water body, including anadromous, estuarine, and resident fish species.

b. All water crossings (e.g., utility lines and road crossings) must be constructed roughly perpendicular to waters of the United States, including streams and wetlands. Where a utility line or access road is constructed parallel to a stream corridor, an undisturbed buffer shall be maintained between the utility line/access road and the waterway to avoid or minimize potential future impacts to waters of the United States. These potential impacts would include such issues as sewer line leaks or failures, future stream channel meandering, stream bank instability and failure, and right-of-way maintenance.

c. Water crossings must be constructed "in the dry" whenever practicable. This should be accomplished by using stream diversion devices other than earthen or stone cofferdams.

d. Equipment shall cross streams only at suitably constructed permanent or temporary crossings.

e. Temporary structures and fills shall be removed and the area restored to its original contours and elevations, or to the conditions specified in the approved plans. The temporary structures and the areas of fill associated with these structures must be included in the total waterway/wetlands impacts.

8. Discharge of Pollutants: All activities that are authorized under the MDSPGP-4 and that involve any discharge or relocation of pollutants into waters of the United States shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. 1251 et. Seq.), and applicable State and local laws and regulations. No discharge of dredged or fill material in association with this authorization may consist of unsuitable material such as trash, debris, car bodies, asphalt, etc.

9. Spawning Areas: Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill materials in fish and shellfish spawning or nursery areas during spawning seasons, shall be avoided. Impacts to these areas shall be avoided or minimized to the maximum extent practicable during all other times of year. Activities that result in the physical destruction (e.g., through excavation, dredging, mining, fill, or significant downstream sedimentation by substantial turbidity) of an important spawning/nursery area are not authorized by this MDSPGP-4.

10. Waterfowl Breeding and Wintering Areas: Discharges into breeding and wintering areas for migratory waterfowl shall be avoided to the maximum extent practicable.

11. Environmental Values: The permittee shall make every reasonable effort to construct or operate the work authorized under the MDSPGP-4 in a manner that maintains as many environmental values as practicable, and that avoids or minimizes any adverse impacts on existing fish, wildlife, and natural environmental values.

12. Management of Water Flows: To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

13. Water Supply Intakes: No discharge of dredged or fill material may occur in the proximity of a public water supply intake.

D. Procedural Conditions:

1. **Inspections:** The permittee shall permit the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary to ensure that the work is being performed in accordance with the terms and conditions of the MDSPGP-4. The District Engineer may also require post-construction engineering drawings (as-built plans) for completed work, and post-dredging survey drawings for any dredging work.

2. **Compliance Certification:** Every permittee who receives a written MDSPGP-4 verification shall submit a signed Compliance Certification Form within 60 days following completion of the authorized work and any required mitigation (but not mitigation monitoring, which requires separate submittals). Failure to submit the Compliance Certification Form by the permittee could result in the Corps taking appropriate non-compliance enforcement action against the permit holder. The Corps will provide a blank copy of the Compliance Certification Form to the permittee with the MDSPGP-4 verification. The completed form will include the following:

a. A statement that the authorized work either was or was not done in accordance with the MDSPGP-4 verification, including any general and/or specific conditions. If the activity was not done in accordance with the MDSPGP-4 verification, including any general and/or specific conditions and requirements, the permittee shall describe the specifics of the deviation from the authorized activity.

b. A statement that any required mitigation was or was not completed in accordance with the permit conditions. If the mitigation was not completed in accordance with the permit conditions, the permittee shall describe the specifics of the deviation from the permit conditions.

c. The signature of the permittee, certifying the completion of the work and compensatory mitigation.

After the project is completed, the certification shall be sent to the Baltimore District at the following address:

**U. S. Army Corps of Engineers
Baltimore District
Attn: CENAB-OP-R
P. O. Box 1715
Baltimore, Maryland 21203-1715**

3. **Transfer of MDSPGP-4 Verifications:** If the permittee sells the property associated with a MDSPGP-4 verification, the permittee may transfer the MDSPGP-4 verification to the new owner by submitting a letter to the Baltimore District Corps of Engineers office to validate the transfer. A copy of the MDSPGP-4 verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this MDSPGP-4 are still in existence at the time the property is transferred, the terms and conditions of this MDSPGP-4, including special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this MDSPGP-4 permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

4. **Maintenance:** The permittee shall properly maintain the work or structure authorized by the MDSPGP-4 in good condition and in compliance with the terms and conditions of the MDSPGP-4, including maintenance to ensure public safety.

5. **Property Rights:** The MDSPGP-4 does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.

6. Modification, Suspension and Revocation: The MDSPGP-4, or any verification under it, may be either modified, suspended, or revoked, in whole or in part, pursuant to DA policies and procedures and any such action shall not be the basis for any claim for damages against the United States.

7. Restoration: The permittee, upon receipt of a notice of revocation of authorization under the MDSPGP-4, shall restore the wetland or waterway to its former condition, without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.

8. Special Conditions: The Corps may impose special conditions on any project authorized under the MDSPGP-4, in cases where the Corps determines that special conditions are necessary to avoid or minimize adverse effects on the environment or on any other factor of the public interest. Failure to comply with all conditions of the authorization/ verification, including special conditions, will constitute a permit violation/unauthorized work and may subject the permittee to criminal, civil, or administrative penalties, and/or restoration.

9. False or Incomplete Information: In granting authorization pursuant to this permit, the Baltimore District will rely upon information and data provided by the permittee. If the project is verified by the Corps or MDE under the MDSPGP-4 and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the MDSPGP-4 verification may be revoked, in whole or in part, and/or the United States may institute appropriate legal proceedings.

10. Compliance: Any activity performed in waters of the United States, including wetlands and navigable waters, that is not in compliance with all the terms and conditions of the MDSPGP-4, which includes the MDSPGP-4 authorized activity activity-specific requirements, constitutes unauthorized work and is subject to an enforcement action by the Corps or the EPA. Furthermore, the MDSPGP-4 does not delegate any Section 404 enforcement or regulatory authority. Unauthorized work in waters of the United States, including wetlands and navigable waters, is subject to one or more of the following responses by EPA and/or the Corps:

- a. A Cease and Desist order and/or an administrative compliance order requiring remedial action.
- b. Initiation and assessment of a Class I administrative penalty order pursuant to Section 309(g) of the CWA.
- c. Initiation and assessment of a Class II administrative penalty for continuing violation pursuant to Section 309(g) of the CWA.
- d. Referral of the case to the U. S. Attorney with a recommendation for a civil or criminal action.
- e. If the Corps determines that an after-the-fact application is appropriate, it will be reviewed following the appropriate procedures.
- f. Any other appropriate response.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

201361511/13-NT-3288
Corps Permit Tracking Number

MDSPGP-4
CATEGORY A, ACTIVITY (A-b(1))
General Maintenance

The projects, structures and activities, listed below, must comply with all activity-specific conditions, in addition to all of the general conditions of this general permit.

This activity authorizes discharges of dredged or fill material for the repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill. This activity authorizes minor deviations in the configuration of the structure or filled area, including changes in materials, construction techniques, current construction codes, or safety standards that are necessary to make the repair, rehabilitation, or replacement, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modification must be immediately adjacent to the project. Currently serviceable means that the structure or fill is usable in its current condition, or with some maintenance, but not so degraded as to essentially require reconstruction. This activity also authorizes the removal of accumulated sediments and debris in the vicinity of, and within, existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.). This activity also authorizes repair, rehabilitation, or replacement in-kind of structures destroyed by storms, floods, fire or other discrete events. This activity authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Section 404(f) exemption for maintenance (Sections 10 and 404; all waters of the United States).

Impact Limits and Requirements:

- i. No application is required for Corps authorization except for replacement of previously authorized, currently serviceable structures, located along a Federally authorized navigation channel, that are destroyed by an act of nature or other sudden event, or for modification of previously authorized, currently serviceable structures located along Federally authorized navigation channels. In these cases, an application is required to be submitted to the Corps for review under Category B or alternate Corps permit review procedures, as appropriate.
- ii. The total temporary (i.e., construction impacts including stream diversion devices) and permanent impacts to waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open waters, are not to exceed 10,000 square feet and/or 500 linear feet of streams, rivers, and other open waters.
- iii. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend any further than 200 linear feet in any direction from the structure.
- iv. Any impact to waters of the United States, including wetlands, associated with this activity is to be minimized below these impact limits to the greatest extent possible.
- v. The following conditions are applicable to Coastal Plain streams, and Harford and Cecil County Piedmont streams:
 - (1) Permanent culvert pipes that are greater than 24 inches in diameter and bridge/arch footers must be countersunk a minimum of 12 inches below the natural stream invert.

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CATEGORY A, ACTIVITY (A-b(1))

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- (2) Permanent culvert pipes and bridge/arch footers placed in streams on bedrock or over buried utility lines are exempt from these countersinking (i.e., depressing) requirements and must be constructed in accordance with the State of Maryland regulations. Permanent culvert pipes and bridge/arch footers placed in streams on bedrock or over buried utility lines are eligible for Category A review with specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipes/culvert.
- (3) All permanent culvert pipes greater than 24 inches in diameter and bridge/arch footers (except those placed in streams on bedrock or over buried utility lines) that cannot be countersunk in accordance with condition (1) above are not eligible for Category A and must be reviewed under Category B or alternate Corps permit review procedures, as appropriate.

Requirements Applicable to Both Category A and Category B Activities:

- i. An application is required to be submitted to the Corps for review under Category B for authorization of previously authorized, currently serviceable structures located along Federally authorized navigation channels that are destroyed by an act of nature or other sudden event or that are proposed to be modified.
- ii. The repair, rehabilitation, or replacement activity is limited to the original dimensions or configuration, except for minor deviations due to changes in materials, construction techniques, or current construction codes or safety standards. Minor deviations in the configuration of the structure or filled area must not exceed the minimum necessary to make the repair, rehabilitation, or replacement.
- iii. Repair, rehabilitation, or replacement of an existing serviceable structure should not result in the displacement of in-stream habitats or features important to anadromous, estuarine, and resident fish, such as plunge or scour pools. Work under this activity must not impede flow in the waterway and/or must not block or impede the movements of anadromous and resident fish.
- iv. Culverts must be adequately sized to allow for the passage of ordinary high water with the depression and invert restrictions taken into account.
- v. Extensions of existing pipes or culverts that are not depressed below the stream invert are exempt from the requirement to depress the culvert.
- vi. This activity does not authorize access roads. Access roads are authorized under IV.B.1.e.(7) Temporary Construction Access, Stream Diversion, and Dewatering.
- vii. The structure or fill must not be put to uses differing from those uses specified or contemplated for it in the original permit or the most recent authorized modification.
- viii. Repair, rehabilitation, or replacement of previously authorized, currently serviceable structures or fills destroyed or damaged by storms, floods, fire, or other discrete events must be started or under contract to start within 2 years of the date that they were damaged or destroyed.
- ix. Maintenance of existing stormwater management facilities must be performed in accordance with any maintenance plan to restore to the design as originally approved and constructed, which includes limiting excavation to the original contours.
- x. This activity does not authorize the discharge of dredged or fill material for the purpose of reclaiming land lost through gradual erosion processes.

MDSPGP-4
CATEGORY A, ACTIVITY (A-b(1))

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- xi. This activity does not authorize any maintenance dredging, beach restoration, stream restoration, stream relocation, or channelization, and/or repair or replacement of bulkheads.**
- xii. This activity does not authorize blasting or other forms of uncontained in-water demolition.**
- xiii. All excavated materials must be deposited and retained in an upland (non-wetland) area.**



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

Operations Division

MDSPGP-4 PERMIT COMPLIANCE CERTIFICATION FORM (10/1/11)

Corps Permit Tracking No. 201361511/13-NT-3288 Category & Activity Number Cat A-b (1)
Project Name Taneytown-Walkersville/ Frederick Applicant Name MTA
Freight
Waterway Big Tuscarora River County Frederick

Dear Permittee:

In accordance with the compliance certification condition of your MDSPGP-4 authorization, you are required upon completion of all permitted work, or if mitigation/compensation is required, within 60 days following completion of the authorized work and any required mitigation (but not the mitigation monitoring, which requires separate submittals), to complete and sign this certification form and return it to the Corps of Engineers, Baltimore District, ATTN: CENAB-OP-R, P.O. Box 1715, Baltimore, Maryland 21203-1715.

Please note that the permitted activity is subject to compliance inspections by U.S. Army Corps of Engineers representatives. As a condition of this permit, failure to return this notification form, provide the required information below, or to perform the authorized work in compliance with the permit, can result in suspension, modification or revocation of your authorization in accordance with 33 CFR Part 325.7 and/or administrative, civil, and/or criminal penalties, in accordance with 33 CFR part 326.

Please provide the following information:

1. Date authorized work commenced: _____ 2. Date authorized work completed: _____
3. Was all work and any required mitigation, completed in accordance with your MDSPGP-4 authorization, including all general and/or specific conditions? YES ___ NO ___
4. For Category A projects involving pile driving activities that are within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels less than 6 parts per thousand (See Appendix B of the MDSPGP-4), please indicate the pile driving method that was used for the authorized work:
 - ___ (a) Piles must be installed in-the-dry during low water;
 - ___ (b) Piles must be drilled and pinned to ledge;
 - ___ (c) Vibratory hammers must be used to install any size and quantity of wood, concrete, or steel pilings;
 - ___ (d) Impact hammers must be limited to one hammer and <50 piles installed per day with the following: wood piles of any size; concrete piles <18-inches diameter; steel piles <12-inch diameter if the hammer is <3,000 pounds and a wood cushion is used between the hammer and steel pile;
 - ___ (e) Approved pile driving methods that will allow noise level thresholds to be met.
Describe: _____

5. Explain in detail any deviations to the authorized work and/or mitigation (use additional sheets if necessary)

6. Was mitigation accomplished through a contribution to the Maryland Nontidal Wetlands Compensation Fund? YES ___ NO ___ (if NO, please complete Nos. 7 and 8 below).

7. Wetland Mitigation: Required? YES ___ NO ___ Required Completion Date _____
Wetland Mitigation Completed? YES ___ NO ___ Mitigation Monitoring Reports Required? YES ___ NO ___

8. Please attach labeled photographs showing completed work including mitigation area(s).

I hereby certify that, except as noted above, that all work, including mitigation, has been completed in accordance with the terms and conditions, including special conditions of the above referenced permit.

Signature of Permittee Date

Address: _____

Telephone: _____

Signature of Contractor/Agent Date

Address: _____

Telephone: _____

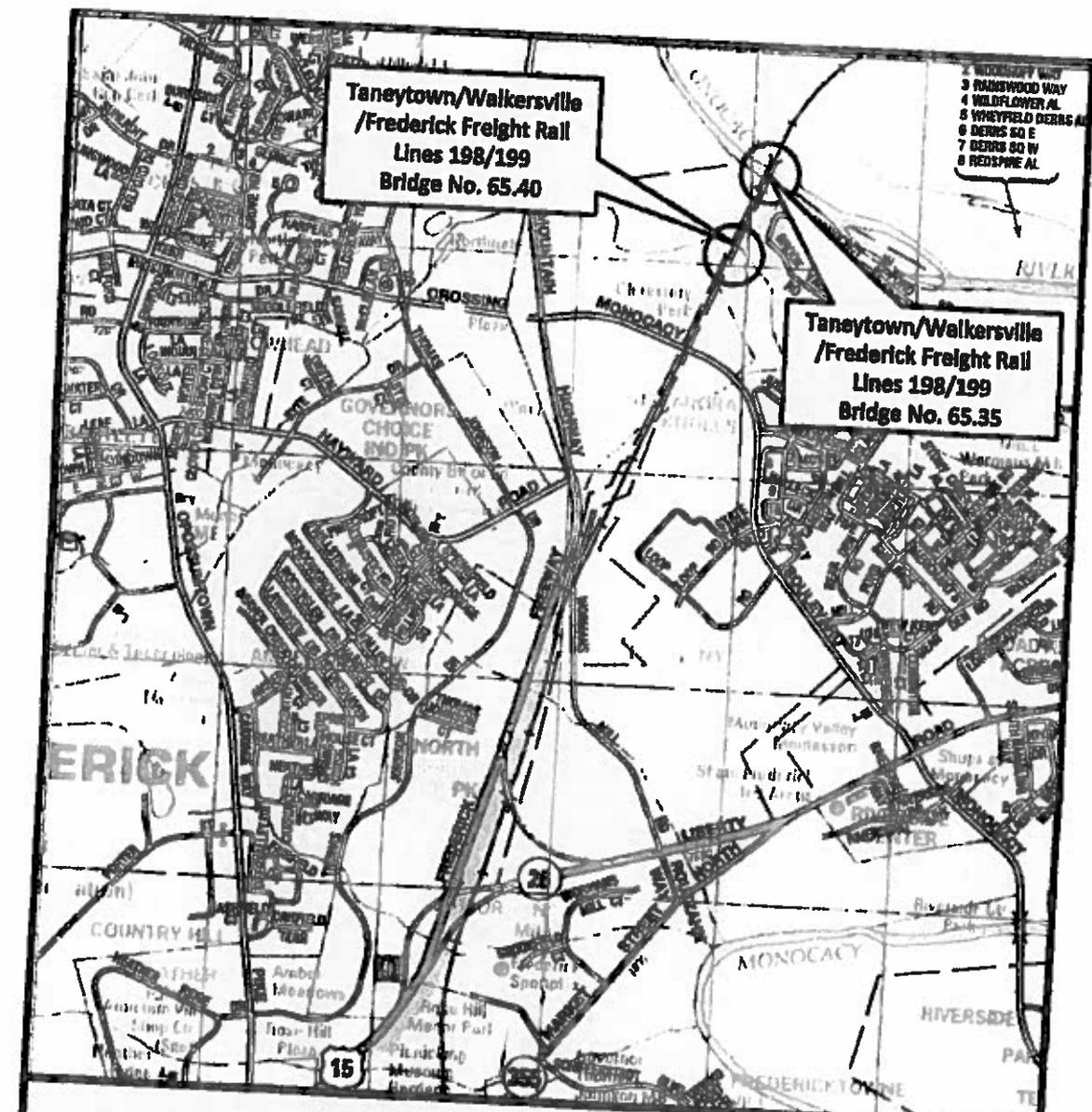


FIGURE 3: PROJECT LOCATION
MTA FREIGHT BRIDGE REPAIR & REHABILITATION

NOT TO SCALE

Latitude: 39°27'45"	N: 594,000 ft
Longitude: 77°23'30"	E: 689,000 ft
Middle Potomac River Watershed (02-14-03)	

ADC Map Location (Frederick County)		
Map #	Year	Grid Location
444B	2008	H:6 (65.35), G:6 (65.40)

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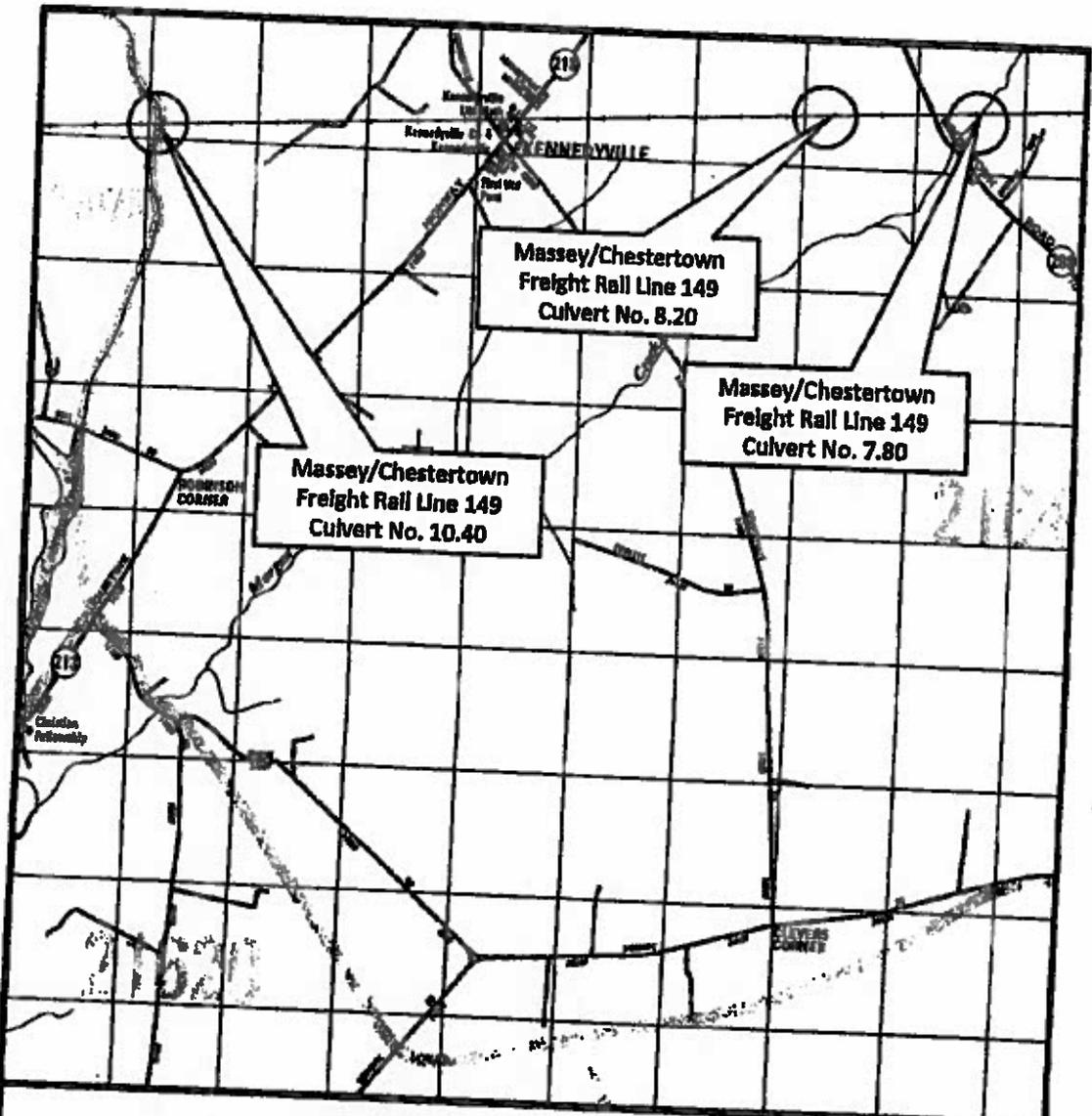


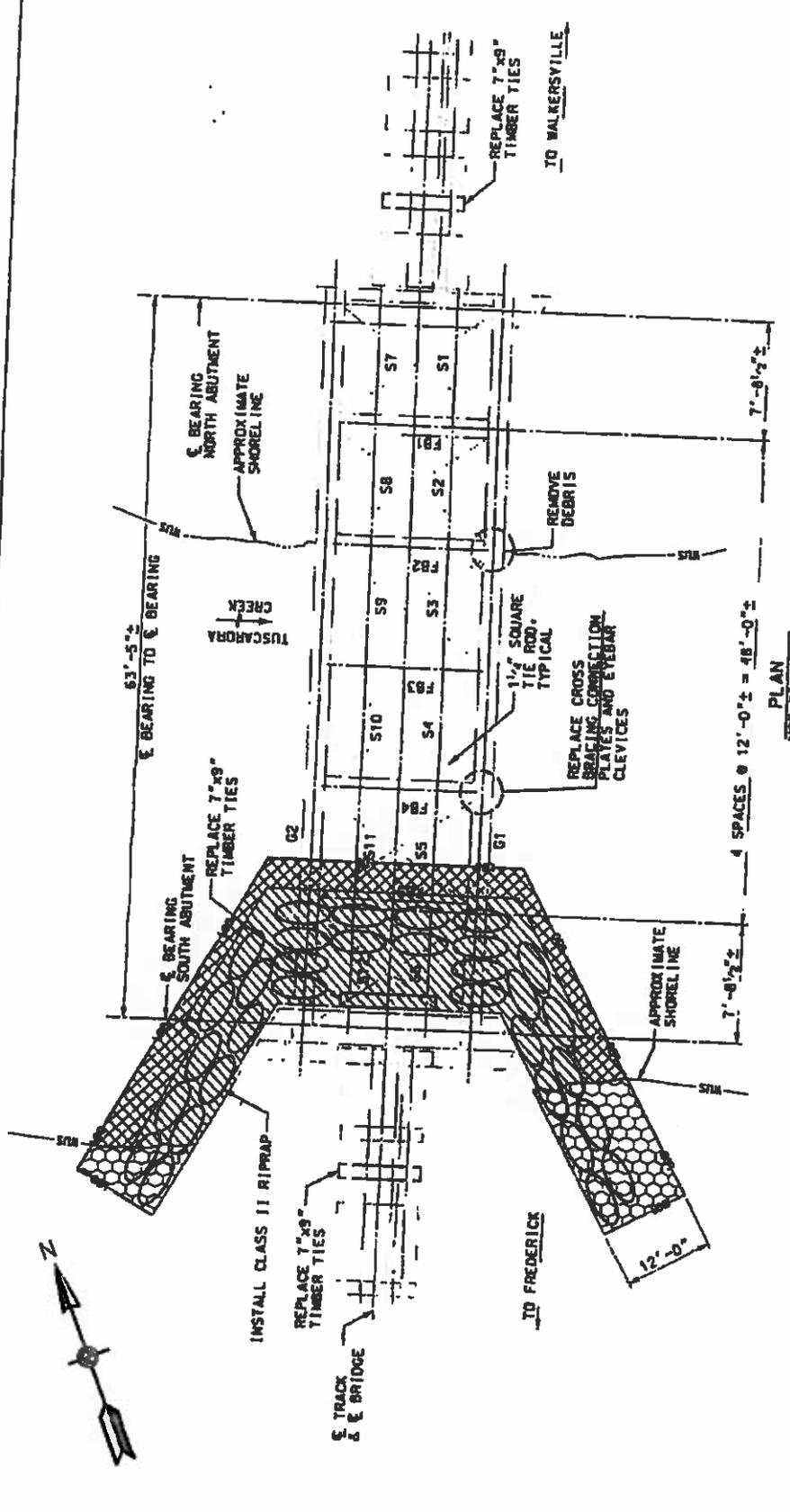
FIGURE 2: PROJECT LOCATION
MTA FREIGHT BRIDGE REPAIR & REHABILITATION

NOT TO SCALE

Latitude: 39°18'15"	N: 538,000 ft
Longitude: 75°59'45"	E: 1,084,000 ft
Chester River Watershed (02-13-05)	

ADC Map Location [Kent County]		
Map #	Edition	Grid Location
10	7th	B:1 (10.40), H:1 (8.20), and J:1 (7.80)

Map Copyright ©1998 Alexandria Drafting Company (ADC) The Map People



PLAN
NOT TO SCALE

LEGEND

-  TEMPORARY WATERS OF THE US IMPACTS
-  PERMANENT WATERS OF THE US IMPACTS
-  100 YR FLOOD PLAIN IMPACTS
-  LIMIT OF DISTURBANCE
-  WATERS OF THE US
-  DIRECTION OF FLOW

TOTAL IMPACTS
 PERMANENT WUS IMPACT: 40 LF, 83 SF, 8 CY FILL IN CHANNEL
 TEMPORARY WUS IMPACT: 0 LF, 138 SF
 PERMANENT WETLAND IMPACT: 0 SF
 TEMPORARY WETLAND IMPACT: 0 SF
 PERMANENT 25 FT BUFFER IMPACT: 0 SF
 TEMPORARY 25 FT BUFFER IMPACT: 0 SF
 100 YR FLOODPLAIN IMPACTS: 289 SF, +2 CY (FILL)

STATE OF MARYLAND
 DEPARTMENT OF TRANSPORTATION
 MARYLAND TRANSIT ADMINISTRATION
 WETLANDS AND WATERS OF THE
 US IMPACTS, PLATE 1
 REPAIRS TO BRIDGE NO 65.40
 IN MIDDLE POTOMAC RIVER WATERSHED
 FREDERICK COUNTY, MARYLAND

SCALE: N.T.S. DATE: JULY 2013 SHEET NO 1 OF 1

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION
LETTER OF AUTHORIZATION

AUTHORIZATION NUMBER: 13-NT-2093/201361509

EFFECTIVE DATE: April 7, 2014

EXPIRATION DATE: April 7, 2017

AUTHORIZED PERSON: **Maryland Transit Administration**
6 St. Paul Street
Baltimore, Maryland 21202-1614
Attention: Wane-Jang Lin



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 OF AUTHORIZATIONS, Maryland Transit Administration (AUTHORIZED PERSON"), IS HEREBY AUTHORIZED BY THE WATER MANAGEMENT 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 April 7, 2014 ("APPROVED PLAN") AND PREPARED BY Wallace Montgomery AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

The project includes removal of an existing bridge and abandoned rail and grading to create a stable bank slope. The project will temporarily impact 1910 sq-ft of nontidal wetland buffer and 38 lf or 455 sq-ft of perennial stream. The project is located approximately 1600 feet northeast of the intersection of MD-404 and MD-404 Business, Denton, in Caroline County.

MD Grid Coordinates: N137473/E499906

A handwritten signature in cursive script, reading "William Seiger", written over a horizontal line.

William Seiger, Chief
Waterway Construction Division

Attachments: Conditions of Authorization
Best Management Practices
8 ½ x 11 Plan Views
MDSPGP-4 Cat A-e(7)

cc: WMA Compliance Division Caroline County w/ file
Alan Kampmeyer, MDE Nontidal Wetlands Division
Marla Duley, Wallace Montgomery

1. **Validity:** Authorization is valid only for use by Authorized Person. Authorization 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 Authorization.
2. **Initiation of Work, Modifications and Extension of Term:** Authorized Person shall initiate authorized activities with two (2) years of the Effective Date of this Authorization or the Authorization shall expire. Authorized Person may submit written requests to the Administration for (a) extension of the period for initiation of work, (b) modification of Authorization, including the Approved Plan, or, (c) not later than 45 days prior to Expiration Date, an extension of the 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.
3. **Responsibility and Compliance:** Authorized Person is fully responsible for all work performed and activities authorized by this Authorization shall be performed in compliance with this Authorization and Approved Plan. Authorized Person agrees that a copy of the Authorization and Approved Plan shall be kept at the construction site and provided to its employees, agents and contractors. A person (including Authorized Person, its employees, agents or contractors) who violates or fails to comply with the terms and conditions of this Authorization, 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 Authorized Person, its employees, agents or contractors fail to comply with this Authorization or Approved Plan, the Administration may, in its discretion, issue an administrative order requiring Authorized Person, its employees, agents and contractors to cease and desist any activities which violate this Authorization, or the Administration may take any other enforcement action available to it by law, including filing civil or criminal charges.
5. **Suspension or Revocation:** Authorization may be suspended or revoked by the Administration, after notice of opportunity for a hearing, if Authorized Person: (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 Authorization; (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 Authorization and new information, changes in site conditions, or amended regulatory requirements necessitate revocation or suspension.
6. **Other Approvals:** Authorization 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:** Authorized Person 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. Authorized Person shall provide necessary assistance to effectively and safely conduct such inspections and evaluations.
8. **Inspection Notification:** Authorized Person 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, Authorized Person shall call 301-689-1480. For Carroll, Frederick, Howard, Montgomery and Prince George's Counties, Authorized Person shall call 301-665-2850. For Baltimore City, Anne Arundel, Baltimore, Calvert, Charles, and St. Mary's Counties, Authorized Person shall call 410-537-3510. For Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, Somerset, Talbot, Wicomico and Worcester Counties, Authorized Person shall call 410-901-4020. If Authorization is for a project that is part of a mining site, please contact the Land Management 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:** Authorized Person 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. **Federally Mandated State Authorizations:**
 - X Water Quality Certification:** Water Quality Certification is granted for this project provided that all work is performed in accordance with the authorized project description and associated conditions.
 - X Coastal Zone Consistency:** This Authorization constitutes official notification that authorized activities are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the Federal Coastal Zone Management Act of 1972, as amended. Activities within the following counties are not subject to this requirement:
Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington.

11. **Best Management Practices During Construction:** Authorized Person, its employees, agents and contractors shall conduct authorized activities in a manner consistent with the Best Management Practices specified by the Administration.
12. **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.
13. **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.
14. **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, Authorized Person, 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.
15. **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.
16. **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): The un-named tributary to the Choptank River is a Use I waterway; in-stream work may not be conducted from March 1st through June 15th, inclusive, of any year.
17. **Instream Blasting:** Authorized Person shall obtain prior written approval from the Administration before blasting or using explosives in the stream channel.
18. **Minimum Disturbance:** Any disturbance of stream banks, channel bottom, wetlands, and wetlands buffer authorized by this Authorization 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.
19. **Restoration of Construction Site:** Authorized Person 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 Authorized Person as directed by the Administration.

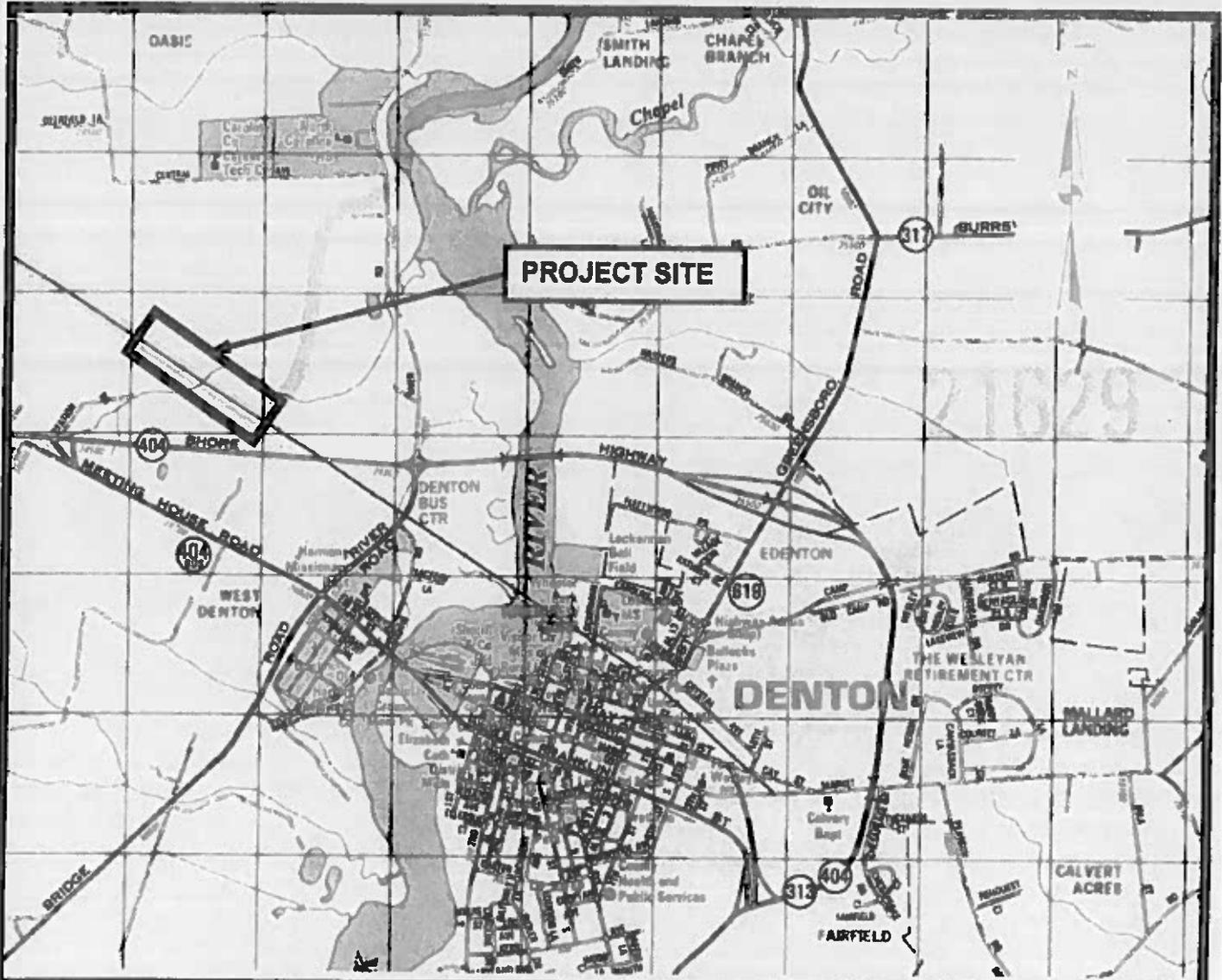
U.S. ARMY CORPS OF ENGINEERS AUTHORIZATION

The U.S. Army Corps of Engineers has reviewed this activity and has granted authorization under the Maryland State Programmatic General Permit (MDSGP-4), as a Category A-e(7) activity. The terms and conditions of the MDPSPGP-4, as outlined in the enclosed attachment, should be followed when performing the authorized work.

**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.
- 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.



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FIGURE 1: Location Map

Queen Anne/Denton Freight Line 150

Bridge No.6.75

SCALE: 1" = 2000'
WM&A 210011.04

PLANS APPROVED BY: *Kelli Flint*
DATE: *April 7, 2014*
WATER MANAGEMENT ADMINISTRATION
NONTIDAL WETLANDS & WATERWAYS DIVISION
MARYLAND DEPARTMENT OF THE ENVIRONMENT
13-NT-2093 / 201361509

Latitude: 38° 53' 57.9"
Longitude: -75° 50' 53.8"
Choptank River (02-13-04)

ADC Map Location Caroline County		
Map #	Edition	Location
12	2005	B7

LEGEND

- WIS
- MON-TIDAL
- BOUNDARY
- 25' STATE MON-TIDAL
- WETLAND BUFFER
- L&D
- LIMITS OF DISTURBANCE
- ACCESS ROUTE



MTA Freight Lines
Structure No. 6.75

ACCESS ROUTE

COUNTY: CAROLINE
 STATE: MARYLAND
 APPLICATION BY: MTA

SHT 1 OF 1 DATE: OCT. 2013

WALLACE
MONTGOMERY

Engineering, Planning, Architecture, Construction Management

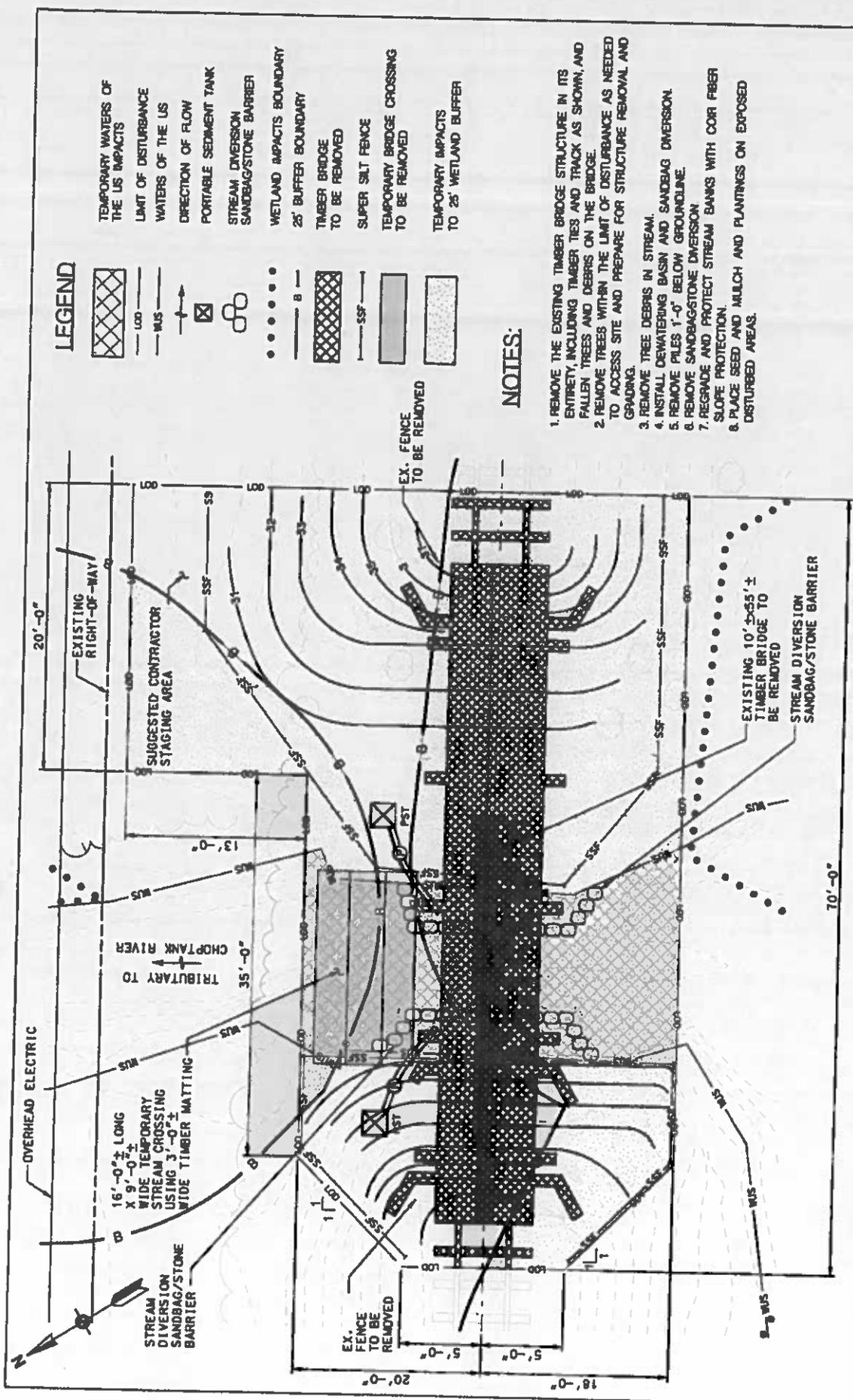
110 West Road, Suite 300
 Annapolis, Maryland 21401
 Phone: 410.293.8700 Fax: 410.293.8711
 www.wallacemontgomery.com

PLAN APPROVED BY: *Kelly Flint*
 DATE: *April 7, 2014*

WATER MANAGEMENT PERMITS DIVISION
 MON-TIDAL WETLANDS & WATERWAYS DIVISION
 MARYLAND DEPARTMENT OF THE ENVIRONMENT

13-NT-2013/2013-6-1309

MTA PROJECT 10011, Gateway to the Chesapeake Bay, Code: MTA-9000_DEVELOP_ACCESS.dgn
 Wednesday, October 23, 2013 4:12:10 PM



LEGEND

- TEMPORARY WATERS OF THE US IMPACTS
- LIMIT OF DISTURBANCE
- WATERS OF THE US
- DIRECTION OF FLOW
- PORTABLE SEDIMENT TANK
- STREAM DIVERSION SANDBAG/STONE BARRIER
- WETLAND IMPACTS BOUNDARY
- 25' BUFFER BOUNDARY
- TIMBER BRIDGE TO BE REMOVED
- SUPER SILT FENCE
- TEMPORARY BRIDGE CROSSING TO BE REMOVED
- TEMPORARY IMPACTS TO 25' WETLAND BUFFER

NOTES:

1. REMOVE THE EXISTING TIMBER BRIDGE STRUCTURE IN ITS ENTIRETY, INCLUDING TIMBER TIES AND TRACK AS SHOWN, AND FALLEN TREES AND DEBRIS ON THE BRIDGE.
2. REMOVE TREES WITHIN THE LIMIT OF DISTURBANCE AS NEEDED TO ACCESS SITE AND PREPARE FOR STRUCTURE REMOVAL AND GRADING.
3. REMOVE TREE DEBRIS IN STREAM.
4. INSTALL DEWATERING BASIN AND SANDBAG DIVERSION.
5. REMOVE PILES 1'-0" BELOW GROUNDLINE.
6. REMOVE SANDBAG/STONE DIVERSION.
7. REGRADE AND PROTECT STREAM BANKS WITH CORR FIBER SLOPE PROTECTION.
8. PLACE SEED AND MULCH AND PLANTINGS ON EXPOSED DISTURBED AREAS.

TOTAL IMPACTS

- PERMANENT WUS IMPACT: 0 LF, 0 SF, 0 CY FILL IN CHANNEL
- TEMPORARY WUS IMPACT: 38 LF, 455 SF
- PERMANENT WETLAND IMPACT: 0 SF
- TEMPORARY WETLAND IMPACT: 0 SF
- PERMANENT 25 FT BUFFER IMPACT: 0 SF
- TEMPORARY 25 FT BUFFER IMPACT: 1910 SF
- 100 YR FLOODPLAIN IMPACTS: 0 SF, +0 CY (FILL)

PLANS APPROVED BY: *Kally Flint*
 DATE: *April 7, 2014*
 WATER MANAGEMENT ADMINISTRATION
 NONTIDAL WETLANDS & WATERWAYS DIVISION
 MARYLAND DEPARTMENT OF THE ENVIRONMENT

13-NJ-2093 / 20361509

LEGEND

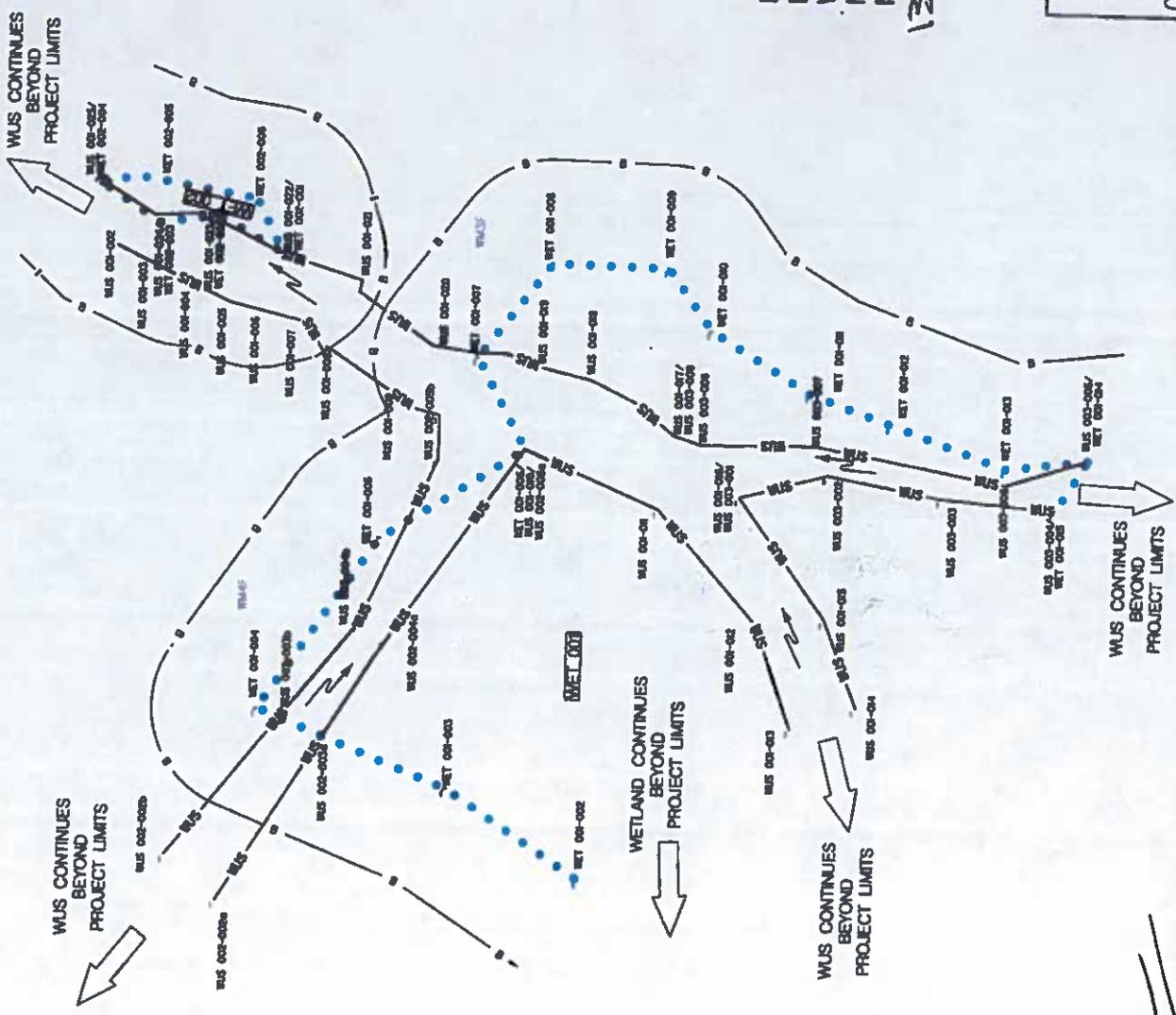
- 25' STATE NON-TIDAL WETLAND BUFFER
- M.S. WATER OF THE U.S.
- NON-TIDAL WETLAND BOUNDARY
- - - EXISTING CONTOURS

PLANS APPROVED BY: Kelly Flint
 DATE: APR 17 2012
 WATER MANAGEMENT ADMINISTRATION
 NONTIDAL WETLANDS & WATERWAYS DIVISION
 MARYLAND DEPARTMENT OF THE ENVIRONMENT
13-NT-20A3/20136A509



MTA QUEEN ANNE/DENTON
 FREIGHT LINE 150
 FIGURE 7 - WETLAND PLAN
 COUNTY: CAROLINE
 STATE: MARYLAND
 APPLICATION BY: CAROLINE COUNTY
 SHT 1 OF 1 DATE: DEC. 2012

WALLACE,
 MONTGOMERY
 & ASSOCIATES, LLP
 CIVIL AND STRUCTURAL ENGINEERS
 110 WEST ROAD
 TOWSON, MARYLAND 21284



NOTES:
 THESE ARE 100-YEAR FLOODPLAIN WITHIN THE PROJECT LIMITS.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1716
BALTIMORE, MD 21203-1716

IMPORTANT INFORMATION ABOUT YOUR PROJECT

Corps Permit Tracking No.: 201361509

Date: April 7, 2014

Permittee/Project Name: MTA/Denton Rail 150

MDSPGP-4 Category and Activity No.: Ae7

Dear Applicant:

The U. S. Army Corps of Engineers, Baltimore District, has determined that the proposed work meets the enclosed terms and conditions of the Maryland State Programmatic General Permit-4 (MDSPGP-4). A requisite of permit issuance requires that the applicant comply with any specific terms and conditions associated with the authorized project (conditions enclosed). This MDSPGP-4 verification is provided pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. If any of the information contained in your application and/or plans is later found to be in error, the MDSPGP-4 authorization for your project may be modified, suspended, or revoked.

As a condition of the MDSPGP-4 authorization, you, the permittee, are required to complete and sign the enclosed Compliance Self-Certification Form regarding the completed work and any required mitigation. The signed form should be returned to the Regulatory Branch at the above address within 60 days following completion of the authorized work and any required mitigation.

Please be aware that the terms and conditions of this permit will continue to be binding on the new property owner(s) if structures or work authorized by this permit exist at the time of ownership transfer of the associated property. Although the construction period for work authorized by this MDSPGP-4 is finite, the permit itself, with its limitations, does not expire. To validate the transfer of this permit and the legal responsibility to comply with its terms and conditions, the transferee (new owner) must provide the Corps a mailing address and telephone number along with their signature and date in the space provided below and mail a copy to the above address.

Your MDSPGP-4 authorization is valid until September 30, 2016 unless the permit is modified, reissued, or revoked. You must remain informed of the changes to the MDSPGP-4. When changes to the MDSPGP-4 occur, a public notice announcing the changes will be issued. Be advised that you have 12 months from the effective date of the MDSPGP-4's expiration, modification or revocation to complete the work under the present terms and conditions provided you have commenced construction or are under contract to commence construction of the authorized work.

In order for this authorization to be valid, you must obtain all required Federal, State, and local permits.

William P. Seib

William P. Seib
Chief, Regulatory Branch

TRANSFeree SIGNATURE

DATE

AREA CODE / TELEPHONE NO.

PRINTED NAME

ADDRESS



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

REPLY TO
ATTENTION OF

Effective October 1, 2011

201361509
Corps Permit Number

CENAB-OP-R-MDSPGP-4 (MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-4)

TO WHOM IT MAY CONCERN:

Upon the recommendation of the Chief of Engineers, and under the provisions of Section 404 of the Clean Water Act, as amended, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Secretary of the Army hereby authorizes the discharge of dredged or fill material or the placement of structures into Waters of the United States, including wetlands and navigable waters. These discharges and structures must comply with all the terms and conditions identified in this MDSPGP-4. It has been determined that the project qualifies for the MDSPGP-4. Accordingly, you are authorized to undertake the activity pursuant to:

1. Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403); and/or
2. Section 404 of the Clean Water Act (33 U.S.C. 1344).

You are authorized to perform work in accordance with the terms and conditions specified in Section VII of the MDSPGP-4 effective on October 1, 2011.

VII. General Conditions: To qualify for MDSPGP-4 authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any activity-specific conditions in the MDSPGP-4 category list and any case-specific special conditions imposed by the Corps.

A. General Requirements:

1. **Other Permits:** Authorization under the MDSPGP-4 does not obviate the need to obtain other Federal, State, or local authorizations required by law.
2. **Geographic Jurisdiction:** This MDSPGP-4 will authorize work undertaken within the geographic limits of the State of Maryland under the regulatory jurisdiction of the Baltimore District.
3. **Applicability:** Applicability of the MDSPGP-4 shall be reviewed with reference to the Corps definition of waters of the United States, including wetlands, and navigable waters of the United States. Applicants are responsible for delineating boundaries of all waters of the United States, including wetland boundaries. The delineation of wetland boundaries shall be accomplished in accordance with the current Federal manual for identifying jurisdictional wetlands and appropriate guidance issued by the Corps of Engineers.
4. **Minimal Effects:** Projects authorized by the MDSPGP-4 shall have no more than minimal individual and cumulative adverse environmental effects.
5. **Discretionary Authority:** Notwithstanding compliance with the terms and conditions of the MDSPGP-4, the Corps retains discretionary authority to require an alternate Corps permit review for any project under all categories of the MDSPGP-4 based on concerns for the aquatic environment or for any other factor of the public interest. This authority may be invoked on a case-by-case basis during the review process for Category B activities whenever the Corps determines that, based on the concerns stated above, the potential consequences of the proposed project warrant individual review. In some rare instances, the Corps may have concerns for the aquatic environment or for any other public interest factor pertaining to a specific proposed project, which has already received a case-specific verification as a Category A activity. In order to evaluate this project under an alternate Corps permit review, the verification must be suspended in accordance with Section VIII.E of the MDSPGP-4.

Whenever the Corps notifies an applicant that an alternate Corps permit may be required, authorization under the MDSPGP-4 is voided. No work may be conducted until the individual Corps permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under the MDSPGP-4.

6. **Single and Complete Projects:** The MDSPGP-4 shall not be used for piecemeal work and shall be applied to single and complete projects, including maintenance activities. For purposes of this MDSPGP-4, a single and complete project means the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers and which has independent utility. All components of a project, including all attendant features both temporary and permanent, shall be reviewed together as constituting one single and complete project. All planned phases of multi-phased projects (e.g., subdivisions should include all work such as roads, utilities, and lot development) shall be applied for and reviewed together as constituting one single and complete project. The MDSPGP-4 shall not be used for any activity or portion of a project (e.g., a pier or boat ramp), that is part of, or dependent on, an overall project (e.g., the dredging of a main navigation channel or a spur channel), for which an individual permit or some other alternate Corps permit is required.

7. **Use of Multiple MDSPGP-4 Activities:** More than one MDSPGP-4 activity may be used to authorize a single and complete project. However, the specific requirements, including all activity-specific requirements and impact thresholds, must be met for each MDSPGP-4 activity and the total extent of project impacts must not exceed the acreage and/or linear foot limit of the MDSPGP-4 activity with the highest specified acreage and/or linear foot limit. For example, if a road crossing is authorized under Category A of Section IV.B.1.(d)(1) with an associated nontidal bank stabilization authorized under Section IV.B.1.f.(4)(a), the maximum total impact limits to nontidal waters of the United States for the single and complete project may not exceed 10,000 square feet in total area and/or 500 linear feet in total length. The road crossing and nontidal bank stabilization activities must still meet all Category A activity-specific requirements and impact thresholds.

A single and complete project with multiple impacts, that may be eligible for authorization under a Category A and a Category B activity, requires an application submittal to the Corps and review under the MDSPGP-4 Category B verification procedures. All specific requirements, including the activity-specific requirements and impact thresholds of the Category A activity and the Category B activity must be met and the total extent of project impacts must not exceed to total acreage and/or linear foot limit of the MDSPGP-4 activity with the highest specified acreage and/or linear foot limit. For example, if a road crossing is authorized under Category A of Section IV.B.1.(d)(1) with an associated nontidal bank stabilization authorized under Section IV.B.f.(4)(b), the maximum total impact limits to waters of the United States for the single and complete project may not exceed 1/2 acre (21,780 square feet) in total area and/or 2,000 linear feet in total length. The road crossing activity must meet the Category A activity-specific requirements and impact thresholds, and the nontidal bank stabilization activity must meet the Category B activity-specific requirements and impact thresholds.

8. **Permit On-Site:** The permittee shall ensure that a copy of the MDSPGP-4 and the accompanying authorization letter are at the work site at all times. These copies must be made available to any regulatory representative upon request. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be expected to comply with all conditions of any general permit authorization.

9. **Authorized Activities in Navigable Waters Subject to Section 10 of the Rivers and Harbors Act of 1899:**

a. If future operations by the United States require removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable water, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

b. The permittee acknowledges the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels and/or ice flows within the waterway. The issuance of this permit does not relieve the permittee from taking all proper steps to ensure the integrity of the structure permitted herein and the safety of vessels moored thereto from damage by wave wash and/or ice flows, and the permittee shall not hold the United States liable for such damage.

c. The permittee must install and maintain, at his/her expense any safety lights, markers, and/or signals prescribed by the USCG, through regulations or otherwise, on the authorized facilities and/or structures. The permittee must contact the Commander (AOWW), Fifth Coast Guard District, Federal Building, 431 Crawford

Street, Portsmouth, Virginia, 23704, to ascertain the need for obstruction lights. Prior to commencing the construction or installation of an authorized structure in navigable waters of the United States, the permittee must submit a "Private Aids to Navigation Application" to the Commander of the USCG.

d. The permittee must provide location coordinates of the authorized structures, including minimum depth and other pertinent information to the USCG and request that a Local Notice to Mariners is issued regarding the authorized work.

10. For Aerial Transmission Lines Across Navigable Waters: The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the USCG for new fixed bridges, in the vicinity of the proposed aerial transmission line. These clearances are based on the low point of the line under conditions producing the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code:

NOMINAL SYSTEM VOLTAGE (kV)	Minimum additional clearance (ft.) above clearance required for bridges.
115 and below	20
138	22
161	24
230	26
350	30
500	35
700	42
750-765	45

a. Clearances for communication lines, stream gauging cables, ferry cables, and other aerial crossings must be a minimum of ten feet above clearances required for bridges, unless specifically authorized otherwise by the District Engineer.

b. Corps Regulation ER 1110-2-4401 prescribes minimum vertical clearances for power communication lines over Corps lake projects. In instances where both the National Electrical Safety Code requirements and ER 1110-2-4401 apply, the greater minimum clearance is required.

A. National Concern:

1. **Historic Properties:** Any activity authorized by the MDSPGP-4 shall comply with Section 106 of the National Historic Preservation Act. Maryland Department of the Environment, in cooperation with the Maryland Historic Preservation Office, shall conduct an initial review and notify the Corps if any archaeological or other cultural resources are in the vicinity of the project. The Corps may require applicants to perform a survey of archaeological and historical resources in the project area. The Corps shall determine whether National Historic Preservation Act Section 106 consultation is required. The applicant must notify the Corps if they have knowledge that the activity may affect any historic properties listed or eligible for listing, or that the applicant has reason to believe may be eligible for listing on the National Register of Historic Places. If the permittee discovers any previously unknown archaeological or other cultural resource while accomplishing the work authorized by the MDSPGP-4, the permittee shall immediately notify the Corps of what has been found and stop work in the permit area until the required coordination has been completed. The permittee shall not begin or continue work until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied

and that the activity may proceed. Information on the location and existence of historical resources can be obtained from the MHT, Office of Preservation Services, and the National Register of Historic Places.

2. **Tribal Rights:** No activity or its operation may impair reserved tribal rights, including but not limited to, reserved water rights and treaty fishing and hunting rights.

3. **National Lands:** Activities authorized by the MDSPGP-4 shall not impinge upon the value of any Federal land, including but not limited to, National Wildlife Refuges, National Forests, National Parks, National Marine Sanctuaries, or any area administered by the FWS, U.S. Forest Service, or National Park Service (e.g., Assateague Island National Seashore).

4. **Endangered Species:** The MDSPGP-4 does not authorize any activity that may directly or indirectly affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal ESA; or which may directly or indirectly destroy or adversely modify the critical habitat of such species unless and until appropriate coordination with the applicable resource agency(s) is complete and all such issues are resolved in accordance with the applicable regulations and procedures. MDE, in cooperation with MD DNR, shall conduct an initial review and notify the Corps and FWS or NMFS if any Federally listed species or critical habitat is likely to be in the vicinity of the project. The Corps shall determine if consultation with FWS or NMFS is required under Section 7 of the ESA. If consultation is required, the applicant, after notification, shall not begin or continue work until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is eligible for authorization. Information on the location of threatened and endangered species and their critical habitat can be obtained from FWS and NMFS. The Corps will be initiating consultation under the Endangered Species Act on this MDSPGP-4 and any conditions from that consultation will be inserted into the MDSPGP-4.

National Marine Fisheries Service – Endangered Species Act Requirements:

a. **Interactions with National Marine Fisheries Service Federally Threatened or Endangered Species:** Any interaction between a sea turtle or any species listed now or in the future under Federal law as a threatened or endangered species (“listed species”) (e.g., North Atlantic right whale, humpback whale, shortnose sturgeon) and the vessels associated with the project must be reported to the NMFS as follows: If the animal appears alive and uninjured (i.e., breathing normally, no visible wounds, movement uninhibited), the permittee or its representative must report the incident to the NMFS Northeast Region Marine Mammal and Sea Turtle Stranding and Entanglement Hotline at (866) 755-6622 within 24 hours of returning from the trip on which they made the discovery. If the animal requires assistance, the call to the hotline must be made immediately. If the animal appears to be injured (i.e. bleeding, gasping for air, etc.) or dead, the permittee or its representative must also immediately call the hotline so the appropriate rehabilitation or stranding network representative can be contacted. The applicant shall also notify the Corps of all correspondence and interaction with the NMFS within two calendar days. Additional information about any Federally threatened or endangered species may be obtained from the attached fact sheet or online at: http://www.nero.noaa.gov/prot_res/stranding/SpeciesOverview.html and at: http://www.nero.noaa.gov/prot_res/esp/. An interaction is defined as an entanglement or capture of a listed species or a strike/direct contact between vessels or equipment used for the project and a listed species.

b. **Vessel Buffer:** When listed species are sighted, vessels must attempt to maintain a distance of 50 yards (150 feet) or greater between the animal and the vessel whenever possible. State and Federal regulations prohibit approaching a right whale within a 500 yard (1,500 foot) buffer zone. Any vessel finding itself within the 500 yard (1,500 foot) buffer zone created by a surfacing right whale must depart immediately at a safe, slow speed. If other listed species are detected, vessels will reduce their speeds to 10 knots or to the maximum extent practicable to ensure human safety. If listed species are sighted off of a moving dredge, intentional approaches within 100 yards (300 feet) of the animal must be avoided. Vessels must reduce speeds to 4 knots or the lowest speed practicable to ensure human safety. Any interactions must be reported to the NMFS.

c. **Best Management Practices Applicable to Category A Activities Within Tidal Waters Having Salinity Levels Less Than 6 Parts Per Thousand (ppt) (See Appendix B):**

(l) **Pile Driving:** For the protection of listed species within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels <6 ppt, pile driving methods must maintain noise level thresholds not to exceed 187dB SEL re 1µPa or 206dB peak re 1µPa at a distance of >10m from the pile being installed; and for levels >155dB peak re 1µPa must not exceed 12 consecutive hours on any given day and a 12 hour

recovery period (i.e., in-water noise levels below 155dB peak re 1µPa) must be provided between work days. Pile driving construction must adhere to one of the following methods: (a) piles must be installed in-the-dry during low water; or (b) piles must be drilled and pinned to ledge; or (c) vibratory hammers must be used to install any size and quantity of wood, concrete, or steel pilings; or (d) impact hammers must be limited to one hammer and <50 piles installed per day with the following: wood piles of any size; concrete piles <18-inches diameter; steel piles <12-inch diameter if the hammer is <3,000 pounds and a wood cushion is used between the hammer and steel pile; or (e) approved pile driving methods that will allow noise level thresholds to be met.

(ii) **Sediment Disturbing Activities Time-of-Year Restriction:** Sediment disturbing activities, which includes pile driving activities, are prohibited during the period April 1 through June 30 within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels <6 ppt for the protection of shortnose sturgeon and early life stages in these waters.

5. **Essential Fish Habitat (EFH) and Fish and Wildlife Coordination Act:** Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires an EFH consultation with the NMFS for any action or proposed action authorized, funded, or undertaken by a Federal agency that may adversely affect EFH. Essential Fish Habitat has been defined by Congress as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." The designation and conservation of EFH seeks to minimize adverse effects on habitat caused by fishing and non-fishing activities. NMFS has determined that many of the MDSPGP-4 Category A activities are eligible for EFH general or programmatic concurrence and require no further EFH consultation. National Marine Fisheries Service, in consultation with the District, has determined that individual EFH consultation is needed for some projects potentially eligible for authorization under Category A of the MDSPGP-4 that may adversely affect EFH. The Corps will coordinate with NMFS as part of the Category B review procedures. EFH conservation recommendations made by NMFS will normally be included as a permit requirement by the Corps. If the EFH coordination and consultation requirements cannot be resolved under the MDSPGP-4 process, an alternate Corps permit review process is required for the project. The Corps will be initiating consultation under these authorities on this MDSPGP-4, and any conditions from that consultation to protect NOAA trust resources will be inserted into this MDSPGP-4.

6. **Wild and Scenic Rivers:** No activity is authorized under the MDSPGP-4 that occurs in a component of the National Wild and Scenic River System, including rivers officially designated by Congress as study rivers for possible inclusion in the system, while such rivers are in an official study status, unless the appropriate Federal agency, with direct management responsibility for the river, has determined in writing that the proposed activity will not adversely affect any National Wild and Scenic River, including study rivers. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U. S. Forest Service, Bureau of Land Management, or FWS).

7. **Federally Authorized Civil Works Projects:**

a. **Federal Navigation Projects:** The MDSPGP-4 does not authorize interference with any existing or proposed Federal navigation projects. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration. (See VII.A.9.a.)

b. **Federal Navigation Channel Setbacks:** All activities must comply with the Baltimore District Minimum Setback Guidance for Structures Along Federally Authorized Channels. Please see the Baltimore District's Regulatory webpage to view this guidance:
<http://www.nab.usace.army.mil/Wetlands%20Permits/publications.htm>.

c. **Other Federally Authorized Civil Work Projects (e.g., flood control, dams, and reservoirs):** The MDSPGP-4 does not authorize interference with any proposed or existing Federally authorized civil works project.

8. **Federal Liability:** In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes;
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest;
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
- d. Design or construction deficiencies associated with the permitted work; and
- e. Damage claims associated with any future modification, suspension or revocation of the MDSPGP-4 or any specific MDSPGP-4 verification.

9. **Navigation:** Projects authorized under the MDSPGP-4 shall not cause interference with navigation, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to projects authorized under the MDSPGP-4. Nothing in the MDSPGP-4 shall in any way restrict the District Engineer, U.S. Army Engineer District, Baltimore, from exercising his legal authority to protect the public interest in navigation or from exercising his authority under the Navigation Servitude of the United States. (See VII.B.8.)

10. **Fills Within 100-Year Floodplain:** The activity must comply with applicable Federal Emergency Management Agency approved State or local floodplain management requirements.

11. **Safety of Impoundment Structures:** To ensure that all impoundment structures are safely designed, the Corps may require non-Federal applicants to demonstrate that the structures comply with established State dam safety criteria or have been designed by qualified persons. The Corps may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

B. Minimization of Environmental Impacts:

1. **Avoidance and Minimization:** Discharges of dredged or fill material into waters of the United States and adverse impacts of such discharges on the aquatic ecosystem shall be avoided and minimized to the maximum extent practicable at the project site (i.e., on-site).

2. **Mitigation Standards:** A proposed compensatory mitigation proposal may be submitted with the application to expedite the process. The Corps will determine if the project is eligible for authorization under the MDSPGP-4 subject to the applicant's submittal of a compensatory mitigation proposal for stream and wetland impacts. Compensatory mitigation plans will generally include a requirement for the establishment, performance, maintenance, legal protection (e.g., conservation easements), and long-term management of the mitigation area. Applicants may propose the use of mitigation banks, in-lieu-fee programs, or separate permittee-responsible mitigation. In general, maintenance of previously authorized activities typically does not require mitigation. All mitigation must be in compliance with the 2008 Mitigation Rule (73 FR 70).

a. Wetland mitigation will generally be required for all permanent tidal or nontidal wetland losses either through the use of the State's tidal or nontidal programmatic wetland compensation, mitigation banks, in-lieu-fee programs, and/or by the permittee as required by special condition of the MDSPGP-4 or the State authorization. Generally, the minimum required wetland mitigation ratios will be as follows: 2:1 for forested and scrub-shrub wetlands; 1:1 for herbaceous emergent wetlands, and 1:1 for permanent conversion of forested wetlands to herbaceous emergent wetlands. Wetland mitigation can include wetland restoration, establishment, enhancement (including restoration or enhancement of upland forested buffers), and/or wetland preservation, unless the Corps determines in writing that some other form of mitigation would be more appropriate and provides a project-specific waiver of this requirement. Since the likelihood of success is greater and the impacts are reduced, wetland restoration should be the first compensatory mitigation option considered.

b. Stream mitigation, focusing on functional replacement, will generally be required for any project that involves losses of more than 200 linear feet to stream channels and rivers through the use of mitigation banks, in-lieu-fee programs, or by the permittee as required by special condition of the MDSPGP-4 and/or the State authorization. Stream mitigation can include stream restoration, establishment, enhancement (including enhancement of riparian buffers), and stream preservation. Riparian buffer areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat impact concerns. The need to require mitigation for impacts to open waters will be determined on a case-by-case basis.

c. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu-fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee.

d. For permittee-responsible mitigation, the special conditions of the MDSPGP-4 verification must clearly indicate the party or parties responsible for the implementation, performance, and long-term management of the compensatory mitigation project.

3. **Work in Wetlands:** Heavy equipment working in wetlands shall be avoided if possible and, if required, soil and vegetation disturbance shall be minimized by using techniques such as timber mats, geotextile fabric, and vehicles with low-pressure tires. Disturbed areas in wetlands shall be restored to preconstruction contours and elevations upon completion of the work.

4. **Temporary Fill and Mats:** Temporary fill and the use of mats are both considered a discharge of fill material and must be included in the quantification of impact area authorized by the MDSPGP-4. Temporary fill (e.g., access roads, cofferdams) in waters and wetlands authorized by the MDSPGP-4 shall be properly stabilized during use to prevent erosion. Temporary fill in wetlands shall be placed on geotextile fabric laid on the existing wetland grade. Upon completion of the work, all temporary fills shall be disposed of at an upland site, suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas shall be restored to their original, pre-construction contours and revegetated with native wetland species.

5. **Erosion and Sediment Control:** Adequate erosion and sediment control measures, practices, and devices, such as turbidity curtains in tidal waters, vegetated filter strips, geotextile silt fences, phased construction, or other devices or methods, shall be used to reduce erosion and retain sediment on-site during and after construction. These devices and methods shall be capable of (a) preventing erosion, (b) collecting sediment and suspended and floating materials, and (c) filtering fine sediment. Erosion and sediment control devices shall be removed when the work is complete and the site has been successfully stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date. In-stream work shall be conducted "in the dry" whenever practicable. This should be accomplished using stream diversion devices, other than earthen or stone cofferdams. In addition, work in waters of the United States should be performed during periods of low-flow or no-flow, whenever practicable.

6. **Aquatic Life Movements:** No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through, or spawn/nursery within the area (e.g., anadromous/catadromous fish); unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. A low flow channel must be maintained through any discharges placed for armoring across the channel so as to not impede flow in the waterway and/or not to block or impede the movements of anadromous, estuarine, and resident fish. Permanent culvert or pipes placed in streams must be depressed in accordance with the State of Maryland regulations. If depression of the culvert is not practicable, the applicant must submit a narrative, along with their application, documenting measures evaluated to minimize disruption of the movement of aquatic life, as well as specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipe/culvert. Options that need to be considered include the use of a bridge, bottomless pipe, partial depression, or other measures to provide for the movement of aquatic organisms. The documentation must also include photographs documenting site conditions. The applicant may find it helpful to contact their regional fishery agency for recommendations about the measures to be taken to allow for fish passage

7. Water Crossings:

a. All temporary and permanent crossings of waterbodies shall be suitably bridged, culverted, or otherwise constructed to withstand and to prevent the restriction of high flows and tidal flows; to maintain existing low flows; and to prevent the obstruction of movement by aquatic life indigenous to the water body, including anadromous, estuarine, and resident fish species.

b. All water crossings (e.g., utility lines and road crossings) must be constructed roughly perpendicular to waters of the United States, including streams and wetlands. Where a utility line or access road is constructed parallel to a stream corridor, an undisturbed buffer shall be maintained between the utility line/access road and the waterway to avoid or minimize potential future impacts to waters of the United States. These potential impacts would include such issues as sewer line leaks or failures, future stream channel meandering, stream bank instability and failure, and right-of-way maintenance.

c. Water crossings must be constructed "in the dry" whenever practicable. This should be accomplished by using stream diversion devices other than earthen or stone cofferdams.

d. Equipment shall cross streams only at suitably constructed permanent or temporary crossings.

e. Temporary structures and fills shall be removed and the area restored to its original contours and elevations, or to the conditions specified in the approved plans. The temporary structures and the areas of fill associated with these structures must be included in the total waterway/wetlands impacts.

8. Discharge of Pollutants: All activities that are authorized under the MDSPGP-4 and that involve any discharge or relocation of pollutants into waters of the United States shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. 1251 et. Seq.), and applicable State and local laws and regulations. No discharge of dredged or fill material in association with this authorization may consist of unsuitable material such as trash, debris, car bodies, asphalt, etc.

9. Spawning Areas: Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill materials in fish and shellfish spawning or nursery areas during spawning seasons, shall be avoided. Impacts to these areas shall be avoided or minimized to the maximum extent practicable during all other times of year. Activities that result in the physical destruction (e.g., through excavation, dredging, mining, fill, or significant downstream sedimentation by substantial turbidity) of an important spawning/nursery area are not authorized by this MDSPGP-4.

10. Waterfowl Breeding and Wintering Areas: Discharges into breeding and wintering areas for migratory waterfowl shall be avoided to the maximum extent practicable.

11. Environmental Values: The permittee shall make every reasonable effort to construct or operate the work authorized under the MDSPGP-4 in a manner that maintains as many environmental values as practicable, and that avoids or minimizes any adverse impacts on existing fish, wildlife, and natural environmental values.

12. Management of Water Flows: To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

13. Water Supply Intakes: No discharge of dredged or fill material may occur in the proximity of a public water supply intake.

D. Procedural Conditions:

1. **Inspections:** The permittee shall permit the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary to ensure that the work is being performed in accordance with the terms and conditions of the MDSPGP-4. The District Engineer may also require post-construction engineering drawings (as-built plans) for completed work, and post-dredging survey drawings for any dredging work.

2. **Compliance Certification:** Every permittee who receives a written MDSPGP-4 verification shall submit a signed Compliance Certification Form within 60 days following completion of the authorized work and any required mitigation (but not mitigation monitoring, which requires separate submittals). Failure to submit the Compliance Certification Form by the permittee could result in the Corps taking appropriate non-compliance enforcement action against the permit holder. The Corps will provide a blank copy of the Compliance Certification Form to the permittee with the MDSPGP-4 verification. The completed form will include the following:

a. A statement that the authorized work either was or was not done in accordance with the MDSPGP-4 verification, including any general and/or specific conditions. If the activity was not done in accordance with the MDSPGP-4 verification, including any general and/or specific conditions and requirements, the permittee shall describe the specifics of the deviation from the authorized activity.

b. A statement that any required mitigation was or was not completed in accordance with the permit conditions. If the mitigation was not completed in accordance with the permit conditions, the permittee shall describe the specifics of the deviation from the permit conditions.

c. The signature of the permittee, certifying the completion of the work and compensatory mitigation.

After the project is completed, the certification shall be sent to the Baltimore District at the following address:

**U. S. Army Corps of Engineers
Baltimore District
Attn: CENAB-OP-R
P. O. Box 1715
Baltimore, Maryland 21203-1715**

3. **Transfer of MDSPGP-4 Verifications:** If the permittee sells the property associated with a MDSPGP-4 verification, the permittee may transfer the MDSPGP-4 verification to the new owner by submitting a letter to the Baltimore District Corps of Engineers office to validate the transfer. A copy of the MDSPGP-4 verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this MDSPGP-4 are still in existence at the time the property is transferred, the terms and conditions of this MDSPGP-4, including special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this MDSPGP-4 permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

4. **Maintenance:** The permittee shall properly maintain the work or structure authorized by the MDSPGP-4 in good condition and in compliance with the terms and conditions of the MDSPGP-4, including maintenance to ensure public safety.

5. **Property Rights:** The MDSPGP-4 does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.

6. Modification, Suspension and Revocation: The MDSPGP-4, or any verification under it, may be either modified, suspended, or revoked, in whole or in part, pursuant to DA policies and procedures and any such action shall not be the basis for any claim for damages against the United States.

7. Restoration: The permittee, upon receipt of a notice of revocation of authorization under the MDSPGP-4, shall restore the wetland or waterway to its former condition, without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.

8. Special Conditions: The Corps may impose special conditions on any project authorized under the MDSPGP-4, in cases where the Corps determines that special conditions are necessary to avoid or minimize adverse effects on the environment or on any other factor of the public interest. Failure to comply with all conditions of the authorization/ verification, including special conditions, will constitute a permit violation/unauthorized work and may subject the permittee to criminal, civil, or administrative penalties, and/or restoration.

9. False or Incomplete Information: In granting authorization pursuant to this permit, the Baltimore District will rely upon information and data provided by the permittee. If the project is verified by the Corps or MDE under the MDSPGP-4 and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the MDSPGP-4 verification may be revoked, in whole or in part, and/or the United States may institute appropriate legal proceedings.

10. Compliance: Any activity performed in waters of the United States, including wetlands and navigable waters, that is not in compliance with all the terms and conditions of the MDSPGP-4, which includes the MDSPGP-4 authorized activity activity-specific requirements, constitutes unauthorized work and is subject to an enforcement action by the Corps or the EPA. Furthermore, the MDSPGP-4 does not delegate any Section 404 enforcement or regulatory authority. Unauthorized work in waters of the United States, including wetlands and navigable waters, is subject to one or more of the following responses by EPA and/or the Corps:

- a. A Cease and Desist order and/or an administrative compliance order requiring remedial action.
- b. Initiation and assessment of a Class I administrative penalty order pursuant to Section 309(g) of the CWA.
- c. Initiation and assessment of a Class II administrative penalty for continuing violation pursuant to Section 309(g) of the CWA.
- d. Referral of the case to the U. S. Attorney with a recommendation for a civil or criminal action.
- e. If the Corps determines that an after-the-fact application is appropriate, it will be reviewed following the appropriate procedures.
- f. Any other appropriate response.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

201361509
Corps Permit Tracking Number

MDSPGP-4
CATEGORY A, ACTIVITY (A-e(7))
Temporary Construction Access, Stream Diversions, and Dewatering

The projects, structures and activities, listed below, must comply with all activity-specific conditions, in addition to all of the general conditions of this general permit.

This activity authorizes temporary structures, work, and discharges of dredged or fill material, including stream diversion devices necessary for construction activities or repair, or access fills or dewatering of construction sites, provided that the associated primary activity is authorized by the Corps or the USCG, or for other construction activities not subject to the Corps or USCG regulations (Sections 10 and 404; all waters of the United States)

Impact Limits and Requirements:

- i. The total temporary impacts to waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open waters, are not to exceed 10,000 square feet of waters of the United States and/or 200 linear feet of streams, rivers, and other open waters. The entire length of diverted stream is considered impacted.
- ii. Discharges into tidal wetlands and waters associated with causeways, approach fills (except for construction mats), and cofferdams are not eligible for Category A and must be reviewed under Category B or alternate Corps permit review procedures, as appropriate.
- iii. Any temporary crossing that must remain in place for over one year after the installation date requires review under Category B or alternate Corps permit review procedures, as appropriate.

Requirements Applicable to Both Category A and Category B Activities:

- i. Application must be submitted to MDE for Corps authorization.
- ii. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding.
- iii. Fill must be of materials and placed in a manner that will not be eroded by expected high flows.
- iv. Work should be accomplished by using stream diversion devices, other than earthen or stone cofferdams or causeways.
- v. Upon completion of the project, all temporary construction materials must be removed and stabilized with straw bales, silt fence, or other erosion and sediment control devices to prevent its reentry into waters of the United States, including wetlands, and the site returned to preconstruction conditions.
- vi. A restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources must be included with the application.
- vii. The width of the fill must be limited to the minimum necessary for the temporary road crossing.
- viii. The temporary road crossing must be removed within 14 calendar days after the structure is no longer needed, subject to any time of year restrictions.
- ix. Any streams or wetlands impacted for the temporary road crossing must be returned to pre-construction conditions which include contours, elevations, stream substrate, and revegetation with native species.



REPLY TO
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DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

Operations Division

MDSPGP-4 PERMIT COMPLIANCE CERTIFICATION FORM (10/1/11)

Corps Permit Tracking No. 201361509 Category & Activity Number Ae(7)
Project Name Denton Rail 150/Bridge Applicant Name MTA
Waterway Un-named trib. Choptank River County Caroline

Dear Permittee:

In accordance with the compliance certification condition of your MDSPGP-4 authorization, you are required upon completion of all permitted work, or if mitigation/compensation is required, within 60 days following completion of the authorized work and any required mitigation (but not the mitigation monitoring, which requires separate submittals), to complete and sign this certification form and return it to the Corps of Engineers, Baltimore District, ATTN: CENAB-OP-R, P.O. Box 1715, Baltimore, Maryland 21203-1715.

Please note that the permitted activity is subject to compliance inspections by U.S. Army Corps of Engineers representatives. As a condition of this permit, failure to return this notification form, provide the required information below, or to perform the authorized work in compliance with the permit, can result in suspension, modification or revocation of your authorization in accordance with 33 CFR Part 325.7 and/or administrative, civil, and/or criminal penalties, in accordance with 33 CFR part 326.

Please provide the following information:

1. Date authorized work commenced: _____ 2. Date authorized work completed: _____
3. Was all work and any required mitigation, completed in accordance with your MDSPGP-4 authorization, including all general and/or specific conditions? YES ___ NO ___
4. For Category A projects involving pile driving activities that are within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels less than 6 parts per thousand (See Appendix B of the MDSPGP-4), please indicate the pile driving method that was used for the authorized work:
 - ___ (a) Piles must be installed in-the-dry during low water;
 - ___ (b) Piles must be drilled and pinned to ledge;
 - ___ (c) Vibratory hammers must be used to install any size and quantity of wood, concrete, or steel pilings;
 - ___ (d) Impact hammers must be limited to one hammer and <50 piles installed per day with the following: wood piles of any size; concrete piles <18-inches diameter; steel piles <12-inch diameter if the hammer is <3,000 pounds and a wood cushion is used between the hammer and steel pile;
 - ___ (e) Approved pile driving methods that will allow noise level thresholds to be met.
Describe: _____

5. Explain in detail any deviations to the authorized work and/or mitigation (use additional sheets if necessary)

6. Was mitigation accomplished through a contribution to the Maryland Nontidal Wetlands Compensation Fund?
YES _____ NO _____ (if NO, please complete Nos. 6 and 7 below).

7. Wetland Mitigation: Required? YES _____ NO _____ Required Completion Date _____
Wetland Mitigation Completed? YES _____ NO _____ Mitigation Monitoring Reports Required? YES _____ NO _____

8. Please attach labeled photographs showing completed work including mitigation area(s).

I hereby certify that, except as noted above, that all work, including mitigation, has been completed in accordance with the terms and conditions, including special conditions of the above referenced permit.

Signature of Permittee Date

Address: _____

Telephone: _____

Signature of Contractor/Agent Date

Address: _____

Telephone: _____



MARYLAND
DEPARTMENT OF
NATURAL RESOURCES

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
John R. Griffin, Secretary
Joseph P. Gill, Deputy Secretary

OCT 19 2012

October 16, 2012

Glenn Marschke
Wallace Montgomery and Associates, LLP
110 West Rd., Suite 300
Towson, MD 21204

RE: Environmental Review for repairs to active freight rail line structures Contract No. MTA-T-0213-2840, bridge no. 6.75 along Queen Anne/Denton rail line 150, trib of Choptank River, Caroline County, MD.

Dear Mr. Marschke:

The Wildlife and Heritage Service has determined that there are no State or Federal records for rare, threatened or endangered species within the boundaries of the project site as delineated. As a result, we have no specific comments or requirements pertaining to protection measures at this time. This statement should not be interpreted however as meaning that rare, threatened or endangered species are not in fact present. If appropriate habitat is available, certain species could be present without documentation because adequate surveys have not been conducted.

Thank you for allowing us the opportunity to review this project. If you should have any further questions regarding this information, please contact me at (410) 260-8573.

Sincerely,

Lori A. Byrne,
Environmental Review Coordinator
Wildlife and Heritage Service
MD Dept. of Natural Resources

ER# 2012.1394.cn



MARYLAND
DEPARTMENT OF
NATURAL RESOURCES

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
John R. Griffin, Secretary
Joseph P. Gill, Deputy Secretary

October 16, 2012

OCT 19 2012

210011.04

Glenn Marschke
Wallace Montgomery and Associates, LLP
110 West Rd., Suite 300
Towson, MD 21204

RE: Environmental Review for repairs to active freight rail line structures Contract No. MTA-T-0213-2840, culvert no. 66.90 along Taneytown/Walkersville/Frederick rail line 198/199, Monocacy River, Frederick County, MD.

Dear Mr. Marschke:

The Wildlife and Heritage Service has determined that there are no State or Federal records for rare, threatened or endangered species within the boundaries of the project site as delineated. As a result, we have no specific comments or requirements pertaining to protection measures at this time. This statement should not be interpreted however as meaning that rare, threatened or endangered species are not in fact present. If appropriate habitat is available, certain species could be present without documentation because adequate surveys have not been conducted.

Thank you for allowing us the opportunity to review this project. If you should have any further questions regarding this information, please contact me at (410) 260-8573.

Sincerely,

Lori A. Byrne,
Environmental Review Coordinator
Wildlife and Heritage Service
MD Dept. of Natural Resources

ER# 2012.1393.fr



MARYLAND
DEPARTMENT OF
NATURAL RESOURCES

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
John B. Griffin, Secretary
Joseph P. Gill, Deputy Secretary

November 8, 2012

NOV 13 2012
210011.04

Glenn Marschke
Wallace Montgomery and Associates LLP
110 West Road, Suite 300
Towson, MD 21204

RE: Environmental Review for repairs to active freight line structures, contract No. MTA-T-0213-2840, Massey/Centreville rail line 148, Massey/Chestertown rail line 149, Taneytown/Walkersville/Frederick rail line 198/199, Kent, Queen Anne's, and Frederick County, MD.

Dear Mr. Marschke:

The Wildlife and Heritage Service has determined that there are no State or Federal records for rare, threatened or endangered species within the boundaries of the project site as delineated. As a result, we have no specific comments or requirements pertaining to protection measures at this time. This statement should not be interpreted however as meaning that rare, threatened or endangered species are not in fact present. If appropriate habitat is available, certain species could be present without documentation because adequate surveys have not been conducted.

Thank you for allowing us the opportunity to review this project. If you should have any further questions regarding this information, please contact me at (410) 260-8573.

Sincerely,

Lori A. Byrne,
Environmental Review Coordinator
Wildlife and Heritage Service
MD Dept. of Natural Resources

ER# 2012.1392.sev

From: Michael Hart
To: Dan Reagle; "L.Komar@wallacemontgomery.com"
Cc: Govind Sulibhavi
Subject: RE: 0213 1720 - Repairs to Freight RL Structures S/W
Date: Thursday, July 18, 2013 11:54:00 AM

Very good, Dan.

Les-
FYI.

Thanks.

Mike

*Michael P. Hart, PE
Sabra, Wang & Associates, Inc.
Project Manager for MTA
Track & Structural Engineering
6 St. Paul Street, Suite 602
Baltimore, MD 21202-6806
Tel: 410-767-3826
Fax: 410-333-0378
MHart@mta.maryland.gov*

From: Dan Reagle
Sent: Thursday, July 18, 2013 11:27 AM
Cc: Harry Romano; Michael Hart; Wane-Jang Lin; 'Elizabeth Amisson'
Subject: 0213 1720 - repair to freight structures

All,

Good news, the MHT determined the proposed project will have no adverse effect to historic resources:

[freight structures NAF determination by MHT 7 17 13.pdf](#)

I'll update all the NEPA items on this project for the next freight status meeting.

Thank you,

Dan Reagle
Maryland Transit Administration | 6 St. Paul Street, Rm 923 | Baltimore, MD 21202 | 410.767.3771
Attachments must be <SMB.