



Public Notice

**U.S. Army Corps
of Engineers**
Baltimore District
PN-21-42

**In Reply to Application Number
NAB- 2020-61123 (MDTA/Contract KH 3024-0000/I-95 at
Belvidere Road)**
Comment Period: November 10, 2021 to December 10, 2021

THE PURPOSE OF THIS PUBLIC NOTICE IS TO INFORM INTERESTED PARTIES OF THE PROPOSED ACTIVITY AND TO SOLICIT COMMENTS. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED AT THIS TIME.

This District has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 USC 1344), as described below:

APPLICANT:

Mr. Jason Harris, P.E.
Maryland Transportation Authority (MDTA)
300 Authority Drive
Baltimore, Maryland 21222

WATERWAY AND LOCATION OF THE PROPOSED WORK:

The proposed road work is located in wetlands and unnamed tributaries to Principio Creek, adjacent to the intersection of Belvidere Road and I-95 in Port Deposit, Cecil County, Maryland. (39.60761, -76.02392). A portion of off-site wetland mitigation for the project will occur adjacent to a tributary of Little Northeast Creek at 80 England Creamery Road, North East, Cecil County, Maryland. (39.68143, -75.95944)

OVERALL PROJECT PURPOSE:

The purpose of the project is to create a new interchange at I-95 and Belvidere Road at the existing Belvidere Road overpass to facilitate the flow of local, commuter, and commercial vehicle traffic in the area.

PROJECT DESCRIPTION:

The project proposes the construction of a highway interchange at I-95 and Belvidere Road in accordance with the attached plans. The interchange will have a loop ramp and outer ramp in the northwest and southeast quadrants of the interchange to facilitate northbound and southbound traffic. The project will construct the necessary attendant infrastructure associated with this work (bridge, roadway widening, new culverts/extensions, utility relocations, stormwater management, etc.) and off-site staging & stockpiling. The work includes vegetative clearing, grading, excavation, and filling.

The project will permanently impact 10,177 square feet (0.23 acres) of forested nontidal wetlands, 4,518 square feet (0.10 acres) of scrub-shrub nontidal wetlands, 40,669 square feet (0.93 acres) of emergent nontidal wetlands, and 3,143 linear feet (14,560 square feet) of intermittent stream.

EFFECTS ON AQUATIC RESOURCES:

Activity	Stream Impact (lf)	Stream Impact (Sq. Ft.)	Wetland Impact (Sq. Ft.)	Authority (Section 10/404/408)
Permanent Impacts associated with roadway construction and site development (clearing, grading, excavation, and fill)	3,143	14,560	55,364	Section 404

LEAD FEDERAL AGENCY: The U.S. Army Corps of Engineers, as the lead federal agency, is responsible for all coordination pursuant to applicable federal authorities.

APPLICANT'S PROPOSED AVOIDANCE, MINIMIZATION, AND COMPENSATORY MITIGATION:

Avoidance and minimization: As part of the planning process for the proposed project, steps were taken to ensure avoidance and minimization of impacts to aquatic resources to the maximum extent practicable based on the existing site conditions. The project area was surveyed by representatives of the Federal Highways Administration (FHWA), USACE, USFWS (U.S. Fish and Wildlife Service), Maryland Department of Planning (MDP), DNR (Maryland Department of Natural Resources), MDE (Maryland Department of the Environment), MDOT SHA (Maryland State Highway Administration), Cecil County, and Wilmington Area Planning Council (WILMAPCO). The interagency field visits identified a robust wetland system with a high concentration of rare, threatened, endangered species in the southwest corner of the interchange and MDTA updated design plans to minimize any construction and discharges in this area. Rather than a four-ramp 'clover leaf' style interchange, the project was minimized to only have two ramps; one to the north of I-95, and one to the south. MDTA also reduced the proposed LOD within the infields of both road ramps, reduced roadway shoulder and median sizes, shortened proposed culverts, and added retaining walls to the design in order to minimize impacts to existing streams and wetlands.

Compensatory Mitigation: Mitigation for unavoidable impacts associated with this project is proposed to be satisfied both on-site and off-site. On-site mitigation includes restoration of degraded intermittent streams; remediation of a forested nontidal wetland headcut; preservation of an intermittent stream; preservation of forested nontidal wetlands containing rare, threatened, and endangered species; and wetland recharge area protection. Off-site mitigation along a tributary of Little Northeast Creek provides for compensatory wetland mitigation by wetland creation/restoration and includes wetland enhancement. The compensatory mitigation will permanently impact 10,817 square feet (0.25 acres) of forested nontidal wetlands, 652 square feet (0.01 acres) of scrub-shrub nontidal wetlands, 21,078 square feet (0.48 acres) of emergent nontidal wetlands, 690 linear feet (13,262 square feet) of perennial stream, and 1,535 linear feet (9,748 square feet) of intermittent stream.

CORPS EVALUATION REQUIREMENTS:

This project will be evaluated pursuant to Corps Regulatory Program Regulations (33 CFR Parts 320-332). The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonable may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economic, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, and consideration of property ownership and in general, the needs and welfare of the people. The evaluation of the impact of this project will also include application of the Clean Water Act Section 404(b)(1) Guidelines promulgated by the Administrator, U.S. Environmental Protection Agency.

ENDANGERED SPECIES:

A preliminary review of this application indicates that the proposed work may affect federally listed rare, threatened, or endangered species or their critical habitat, pursuant to Section 7 of the Endangered Species Act, as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

ESSENTIAL FISH HABITAT:

The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267), requires all federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH), including species of concern, life cycle habitat, or Habitat Areas of Particular Concern. The project site lies in or adjacent to EFH as described under MSFCMA for managed species under the MSFCMA. The Baltimore District has made a preliminary determination that the project is not within EFH. The Baltimore District has made a preliminary determination that mitigative measures are not required to minimize adverse effects on EFH at this time. This determination may be modified if additional information indicates otherwise.

HISTORIC RESOURCES:

Pursuant to Section 106 of the National Historic Preservation Act of 1966 and applicable guidance, the Corps has reviewed the latest published version of the National Register of Historic Places and initially determined that no registered properties listed as eligible for inclusion, therein, are located at the site of the proposed work. The Corps has made the preliminary determination that the proposed project has no potential to cause effects on historic properties. The Corps final eligibility and effect determination will be based on coordination with the State Historic Preservation Office as appropriate and required,

and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps' identified permit area.

TRIBAL RESOURCES:

Section 106 of the National Historic Preservation Act also requires federal agencies to consult with federally recognized American Indian tribes that attach religious and cultural significance to historic properties that may be affected by the agency's undertaking. Corps Tribal Consultation Policy mandates an open, timely, meaningful, collaborative, and effective deliberative communication process that emphasizes trust, respect, and shared responsibility. The policy further emphasizes that, to the extent practicable and permitted by law, consultation works toward mutual consensus and begins at the earliest planning stages, before decisions are made and actions taken. The Corps final eligibility and effect determination will be based on coordination with interested tribes, in accordance with the Corps current tribal standard operating procedures as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on tribal resources.

MODIFICATION OF CIVIL WORKS PROJECTS: 33 USC 408 (SECTION 408):

All Section 408 proposals will be coordinated internally at USACE. The Section 408 decision will be issued along with the Section 404 and/or Section 10 decision. Please see the following link for more information regarding Section 408:

<https://www.nab.usace.army.mil/section408/>.

WATER QUALITY CERTIFICATION:

The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act.

COASTAL ZONE MANAGEMENT PROGRAMS:

Where applicable, the applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with the approved Coastal Zone Management (CZM) Program. By this public notice, we are requesting the State concurrence or objection to the applicant's consistency statement.

The applicant must obtain any state or local government permits which may be required.

SUBMISSION OF COMMENTS:

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental

Impact Statement pursuant to the National Environmental Policy Act. Comments provided will become part of the public record for this action and are subject to release to the public through the Freedom of Information Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the U.S. Army Corps of Engineers, Baltimore District within the comment period specified above through postal mail at the address below or electronic submission to the project manager email address below. Written comments should reference the Application Number (NAB-2020-61123).

PUBLIC HEARING REQUESTS:

Any person who has an interest which may be adversely affected by the issuance of this permit may request a public hearing. The request, which must be in writing, must be received within the comment period as specified above to receive consideration. Also, it must clearly set forth the interest which may be adversely affected by this activity and the manner in which the interest may be adversely affected. The public hearing request may be submitted by electronic mail or mailed to the following address:

Matt Hynson
Matthew.Hynson@usace.army.mil
U.S. Army Corps of Engineers, Baltimore District
Regulatory Branch
2 Hopkins Plaza
Baltimore, Maryland 21201

It is requested that you communicate this information concerning the proposed work to any persons known by you to be interested, who did not receive a copy of this notice.

General information regarding the Corps' permitting process can be found on our website at <https://www.nab.usace.army.mil/Missions/Regulatory.aspx>. This public notice has been prepared in accordance with Corps implementing regulations at 33 CFR 325.3. If you have any questions concerning this specific project or would like to request a paper copy of this public notice, please contact Matt Hynson at Matthew.Hynson@usace.army.mil or (410) 689-9532. This public notice is issued by the Chief, Regulatory Branch.