

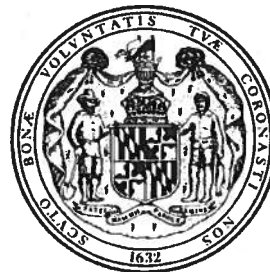
STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER AND SCIENCE ADMINISTRATION
LETTER OF AUTHORIZATION

AUTHORIZATION NUMBER: 20-NT-0139/202060848

EFFECTIVE DATE: May 27, 2021

EXPIRATION DATE: May 27, 2026

AUTHORIZED PERSON: Come Back Terps, LLC
5055 Amesbury Drive
Columbia, MD 21044
Attn: Mr. Ghazi Hussain



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, Come Back Terps, LLC (AUTHORIZED PERSON"), IS HEREBY AUTHORIZED BY THE WATER AND SCIENCE ADMINISTRATION ("ADMINISTRATION") TO CONDUCT A REGULATED ACTIVITY IN A NONTIDAL WETLAND, BUFFER, OR EXPANDED BUFFER, AND/OR TO CHANGE THE COURSE, CURRENT OR CROSS-SECTION OF WATERS OF THE STATE, IN ACCORDANCE WITH THE ATTACHED PLANS APPROVED BY THE ADMINISTRATION ON May 25, 2021 ("APPROVED PLAN") AND PREPARED BY Capitol Development Design, Inc. AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

Regulated activities associated with grading, stormwater management, and the installation of culverts for a residential development. The work will require permanent impacts to 41 square feet of forested nontidal wetland, 1,567 square feet of the 25-foot nontidal wetland buffer, 6,634 square feet of 100-year nontidal floodplain, and 140 linear feet (1,487 square feet) of an unnamed tributary to Oxon Run, a Use I stream. The work will also require temporary impacts to 2,696 square feet of 100-year nontidal floodplain and 69 linear feet (625 square feet) of stream. The project is located at 2319 Shadyside Avenue in Hillcrest Heights in Prince George's County.

MD Grid Coordinates 132282 x 405909

A handwritten signature in cursive script that reads "Heather L. Nelson".

Heather L. Nelson
Program Manager
Wetlands and Waterways Program

Attachments: Conditions of Authorization

cc: MDE Compliance Program

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 in waterways, including streams and the 100-year floodplain, within two (2) years of the Effective Date of this Authorization or the Authorization shall expire. [Annotated Code of Maryland, Environment Article 5-510(a)-(b) and Code of Maryland Regulations 26.17.04.12]. 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 term. Requests for modification shall be in accordance with applicable regulations and shall state reasons for changes, and shall indicate the impacts on nontidal wetlands, streams, and the floodplain, as applicable. The Administration may grant a request at its sole discretion. (Annotated Code of Maryland, Environment Article 5-510(c), and Code of Maryland Regulations 26.17.04.12, and Annotated Code of Maryland, Environment Article 5-907 and Code of Maryland Regulations 26.23.02.07).
3. **Responsibility and Compliance:** 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, Harford and St. Mary's Counties, Authorized Person shall call 410-537-3510. For Caroline, Cecil, Dorchester, 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 and Materials Administration's Mining Program at 410-537-3557 at least five (5) days before starting authorized activities and five (5) days after completion.
9. **Sediment Control:** Authorized Person shall obtain approval from the Prince George's County 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. **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.
11. **Disposal of Excess:** Unless otherwise shown on the Approved Plan, all excess fill, spoil material, debris, and construction material shall be disposed of outside of nontidal wetlands, nontidal wetlands buffers, and the 100-year floodplain, and in a location and manner which does not adversely impact surface or subsurface water flow into or out of nontidal wetlands.
12. **Temporary Staging Areas:** Temporary construction trailers or structures, staging areas and stockpiles shall not be located within nontidal wetlands, nontidal wetlands buffers, or the 100-year floodplain unless specifically included on the Approved Plan.

13. **Temporary Stream Access Crossings:** Temporary stream access crossings shall not be constructed or utilized unless shown on the Approved Plan. If temporary stream access crossings are determined necessary prior to initiation of work or at any time during construction, 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.
14. **Discharge:** Runoff or accumulated water containing sediment or other suspended materials shall not be discharged into waters of the State unless treated by an approved sediment control device or structure.
15. **Instream Construction Prohibition:** To protect important aquatic species, motor driven construction equipment shall not be allowed within stream channels unless on authorized ford crossings. Activities within stream channels are prohibited as determined by the classification of the stream (COMAR 26.08.02.08): Oxon Run is a Use I waterway; in-stream work may not be conducted from March 1 through June 15, inclusive, of any year.
16. **Instream Blasting:** Authorized Person shall obtain prior written approval from the Administration before blasting or using explosives in the stream channel.
17. **Minimum Disturbance:** Any disturbance of stream banks, channel bottom, wetlands, and wetlands buffer authorized by 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.
18. **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.

FEDERALLY MANDATED STATE AUTHORIZATIONS

The State of Maryland issued a Water Quality Certification to the U.S. Army Corps of Engineers for projects receiving federal authorization under the Maryland State Programmatic General Permit, Regional General Permit for Chesapeake Bay Total Maximum Daily Load (TMDL) Activities and non-suspended Nationwide Permits. In addition, as applicable, this Authorization constitutes the State's concurrence with the Applicant's certification that the activities authorized herein are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act of 1972, as amended. Activities in the following counties are not subject to the Maryland Coastal Zone Management requirement: Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington.

U.S. ARMY CORPS OF ENGINEERS AUTHORIZATION

The U.S. Army Corps of Engineers has reviewed this activity and has granted authorization under the Maryland State Programmatic General Permit (MDSPGP-5), as a Category A activity. The terms and conditions of the MDSPGP-5 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.
 - Use III waters: In-stream work shall not be conducted during the period October 1 through April 30, inclusive, during any year.
 - Use IV waters: In-stream work shall not be conducted during the period March 1 through May 31, inclusive, during any year.
- 10) Stormwater runoff from impervious surfaces shall be controlled to prevent the washing of debris into the waterway.
- 11) Culverts shall be constructed and any riprap placed so as not to obstruct the movement of aquatic species, unless the purpose of the activity is to impound water.



VICINITY MAP
SCALE: 1"=1000'

Taken from:
WETLAND INVENTORY GEOSPATIAL WETLAND DATA
www.fws.gov/Wetlands/Data/DataDownload
(SCALE: 1" = 1000')

VICINITY MAP- SCALE 1" = 1000'

04/21/2021



CAPITOL DEVELOPMENT DESIGN, INC.
ENGINEERS - PLANNERS - SURVEYOR'S
4600 POWDER MILL ROAD - SUITE 200 - BELTSVILLE, MD. 20705
OFFICE (301) 937-3501 FAX (301) 937-3507

BRADBURY SUBDIVISION
SQUALDINGS 6TH ELECTION DISTRICT
PRINCE GEORGE'S COUNTY, MARYLAND



**WATERS OF THE US
WETLAND AND 100 YEAR F.P.
LOCATION MAP**
SCALE: 1"=100'

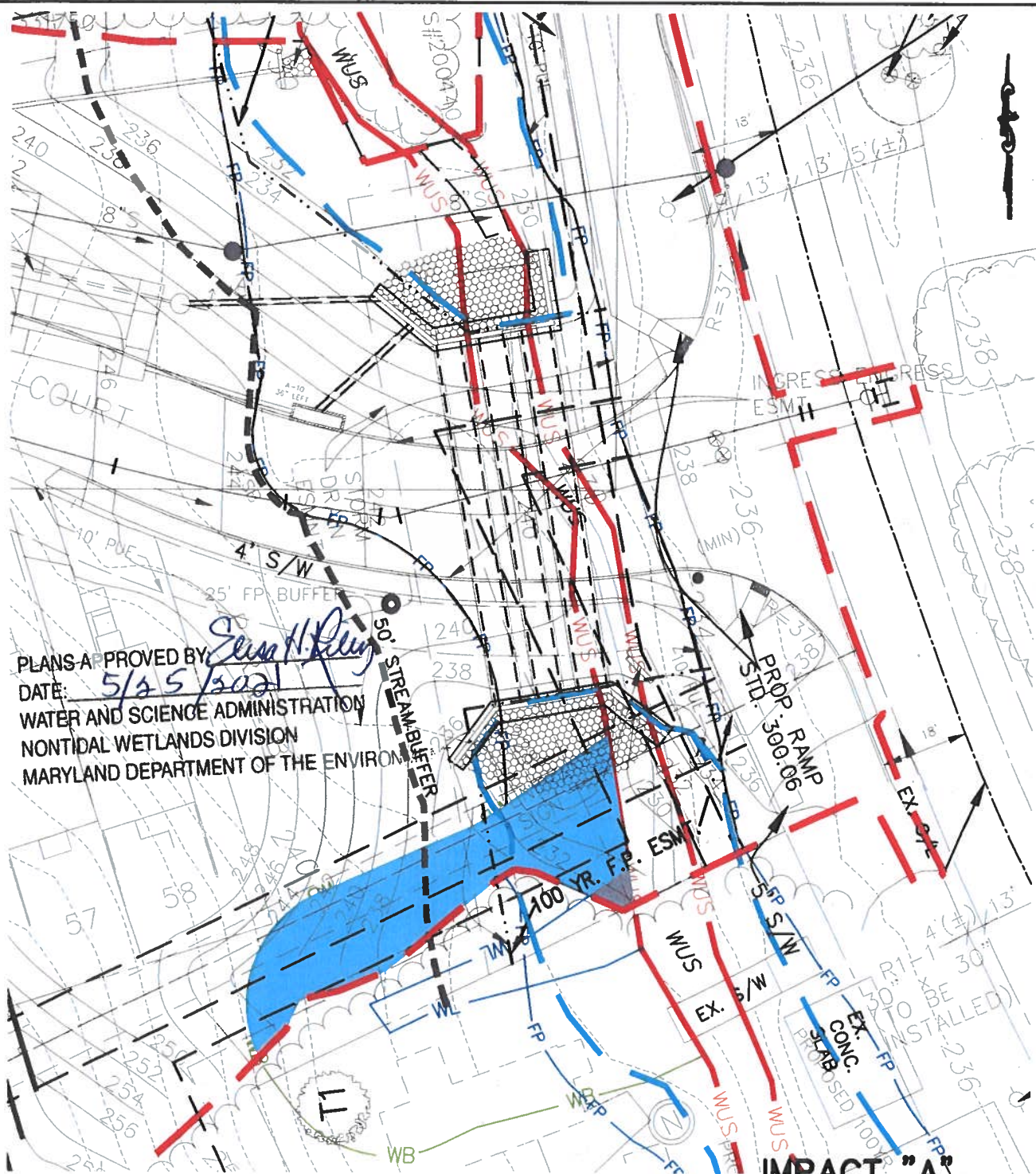
PLANS APPROVED BY: *Elsa A. Riley*
DATE: 5/25/2021
WATER AND SCIENCE ADMINISTRATION
NONTIDAL WETLANDS DIVISION
MARYLAND DEPARTMENT OF THE ENVIRONMENT

WATERS OF THE US, WETLAND AND 100 YEAR FLOOD PLAIN IMPACT- SCALE 1"=100' 04/21/2021



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ENGINEERS - PLANNERS - SURVEYOR'S
4600 POWDER MILL ROAD - SUITE 200 - BELTSVILLE, MD. 20705
OFFICE (301) 937-3801 FAX (301) 937-3807

BRADBURY SUBDIVISION
SQUALDINGS 6TH ELECTION DISTRICT
PRINCE GEORGE'S COUNTY, MARYLAND



PLANS APPROVED BY: *Eric H. Riley*
 DATE: 5/25/2021
 WATER AND SCIENCE ADMINISTRATION
 NONTIDAL WETLANDS DIVISION
 MARYLAND DEPARTMENT OF THE ENVIRONMENT

LEGEND	IMPACT TYPE	AREA OF IMPACT
	PERM. DISTURBANCE TO WETLANDS	41 S.F.
	PERM. DISTURBANCE TO WETLANDS BUFFER	1,567 S.F.

	WUS	WATER OF U.S. LIMITS
	LOD	LIMITS OF DISTURBANCE
	FP	EX. 100 YR. FLOOD PLAN
	WL	WETLAND
	WB	WETLAND BUFFER
	PROPOSED 100 YR. F.P.	PROPOSED 100 YR. F.P.

IMPACT "A"

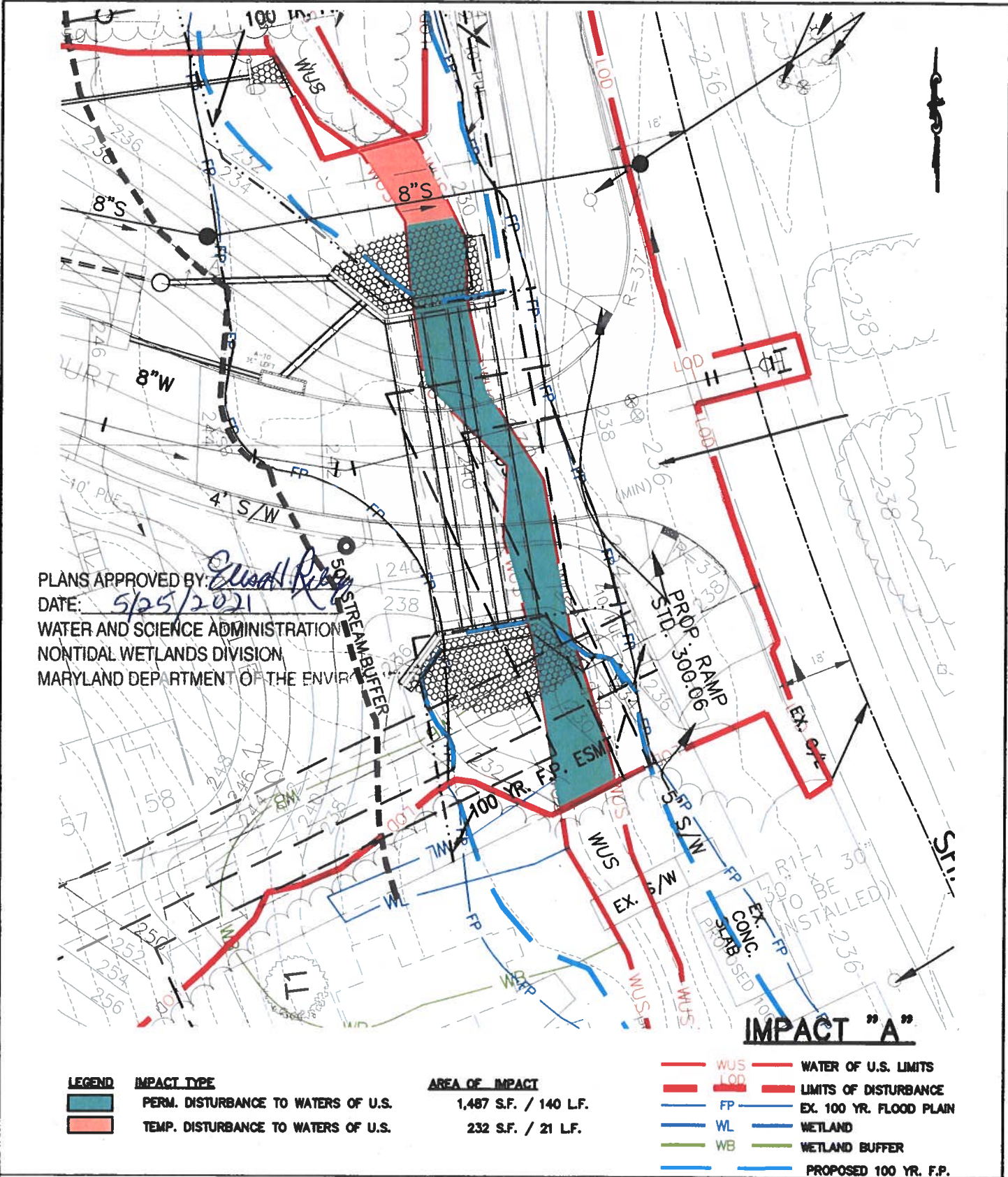
WETLAND/WETLAND BUFFER IMPACT "A" - SCALE 1"=30'

04/21/2021



CAPITOL DEVELOPMENT DESIGN, INC.
 ENGINEERS - PLANNERS - SURVEYOR'S
 4600 PONDERS MILL ROAD - SUITE 200 - BELTSVILLE, MD. 20708
 OFFICE (301) 937-3501 FAX (301) 937-3507

BRADBURY SUBDIVISION
 SQUALDINGS 6TH ELECTION DISTRICT
 PRINCE GEORGE'S COUNTY, MARYLAND



PLANS APPROVED BY: *Edward R. Kelly*
 DATE: 5/25/2021
 WATER AND SCIENCE ADMINISTRATION
 NONTIDAL WETLANDS DIVISION
 MARYLAND DEPARTMENT OF THE ENVIRONMENT

IMPACT "A"

LEGEND	IMPACT TYPE	AREA OF IMPACT
	PERM. DISTURBANCE TO WATERS OF U.S.	1,487 S.F. / 140 L.F.
	TEMP. DISTURBANCE TO WATERS OF U.S.	232 S.F. / 21 L.F.

	WUS	WATER OF U.S. LIMITS
	LOD	LIMITS OF DISTURBANCE
	FP	EX. 100 YR. FLOOD PLAIN
	WL	WETLAND
	WB	WETLAND BUFFER
	PROPOSED 100 YR. F.P.	PROPOSED 100 YR. F.P.

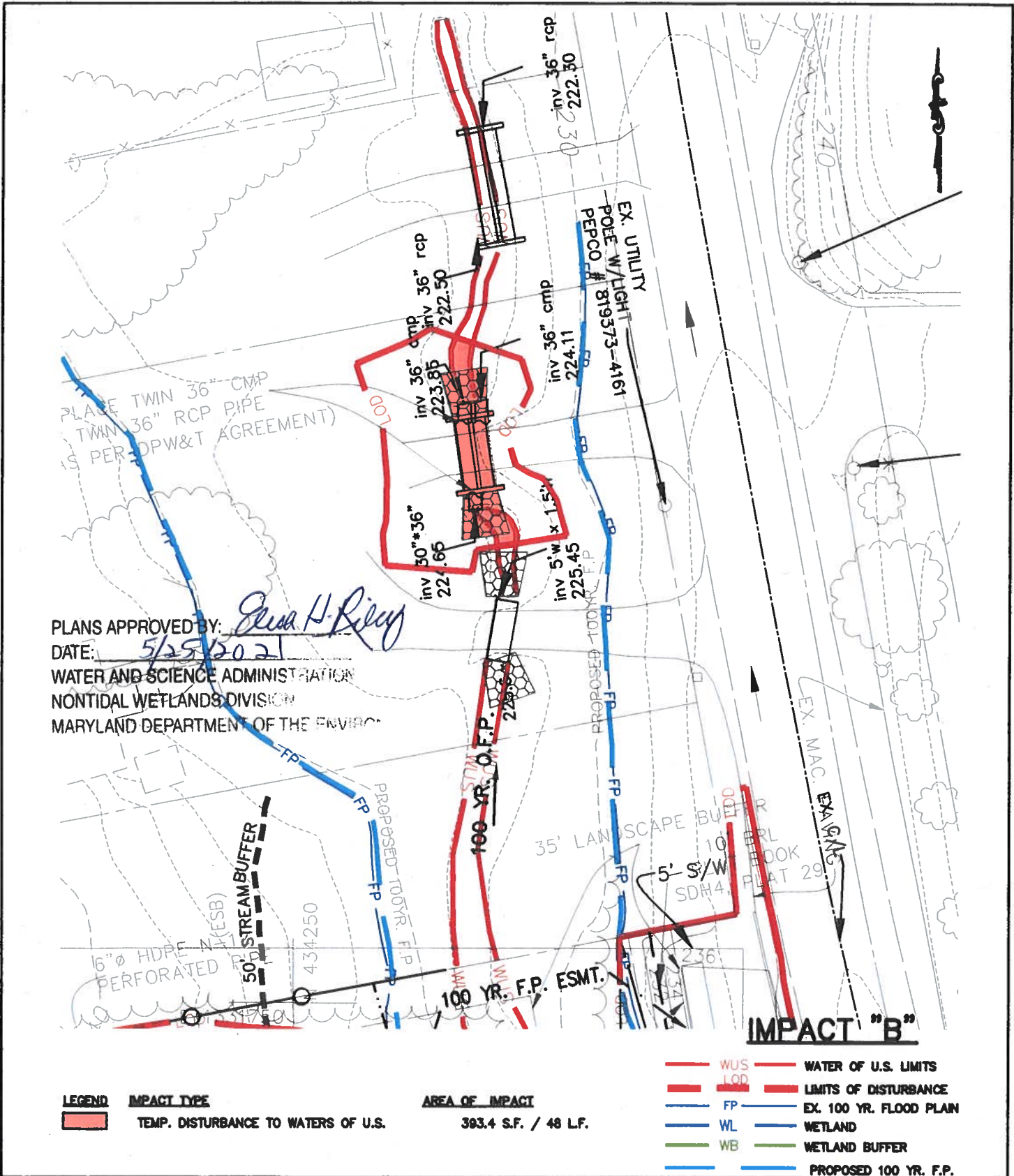
WATERS OF THE US IMPACTS "A" - SCALE 1"=30'

04/21/2021



CAPITOL DEVELOPMENT DESIGN, INC.
 ENGINEERS - PLANNERS - SURVEYOR'S
 4600 POWDER MILL ROAD - SUITE 200 - BELTSVILLE, MD. 20705
 OFFICE (301) 937-3501 FAX (301) 937-3507

BRADBURY SUBDIVISION
 SQUALDINGS 6TH ELECTION DISTRICT
 PRINCE GEORGE'S COUNTY, MARYLAND



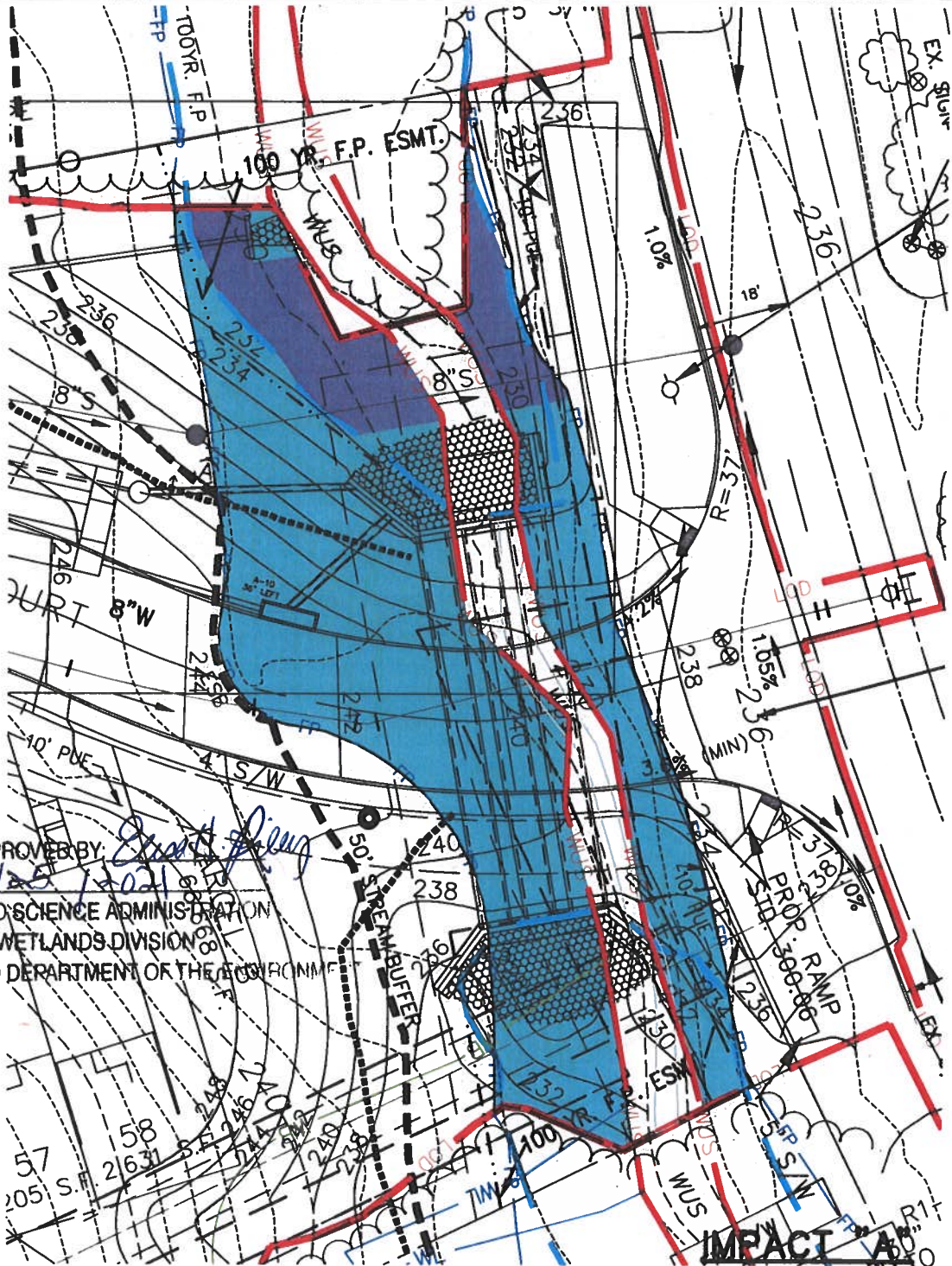
WATERS OF THE US TEMP OFF-SITE IMPACTS "B" - SCALE 1"=30'

04/21/2021



CAPITOL DEVELOPMENT DESIGN, INC.
 ENGINEERS - PLANNERS - SURVEYOR'S
 4600 POWDER MILL ROAD - SUITE 200 - BELTSVILLE, MD. 20706
 OFFICE (301) 937-3501 FAX (301) 937-3807

BRADBURY SUBDIVISION
 SQUALDINGS 6TH ELECTION DISTRICT
 PRINCE GEORGE'S COUNTY, MARYLAND



PLANS APPROVED BY: *[Signature]*
 DATE: 5/25/2021
 WATER AND SCIENCE ADMINISTRATION
 NONTIDAL WETLANDS DIVISION
 MARYLAND DEPARTMENT OF THE ENVIRONMENT

LEGEND	IMPACT TYPE	AREA OF IMPACT
	PERM. DISTURBANCE TO EX. FLOODPLAIN	6,634 S.F.
	TEMP. DISTURBANCE TO EX. FLOODPLAIN	1,153 S.F.

	WUS	WATER OF U.S. LIMITS
	LOD	LIMITS OF DISTURBANCE
	FP	EX. 100 YR. FLOOD PLAIN
	WL	WETLAND
	WB	WETLAND BUFFER
		PROPOSED 100 YR. F.P.

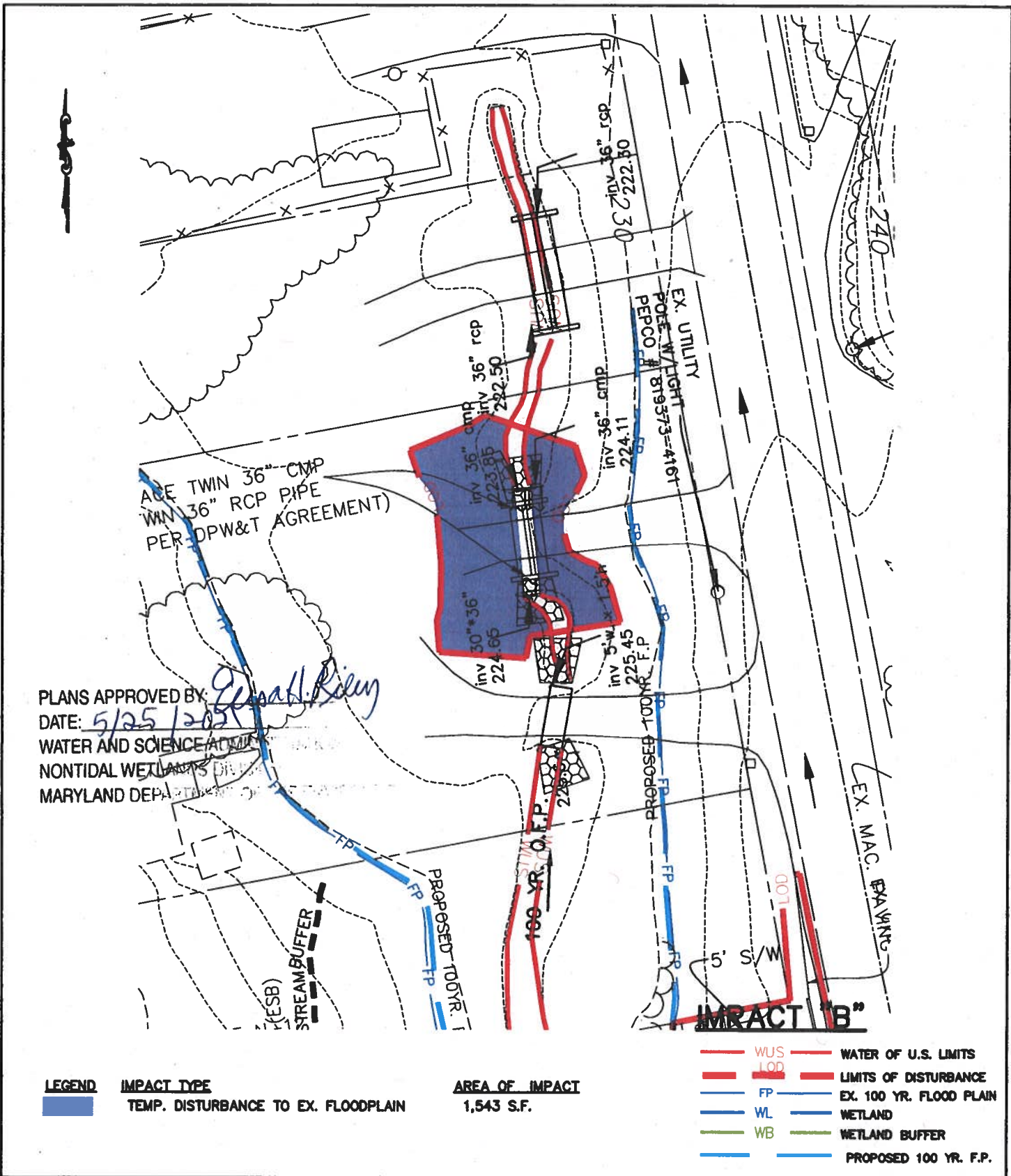
100 YEAR FLOOD PLAIN IMPACT- SCALE 1"=30'

04/21/2021



CAPITOL DEVELOPMENT DESIGN, INC.
 ENGINEERS - PLANNERS - SURVEYOR'S
 4600 POWDER MILL ROAD - SUITE 200 - BELTSVILLE, MD. 20705
 OFFICE (301) 937-3501 FAX (301) 937-3507

BRADBURY SUBDIVISION
 SQUALDINGS 6TH ELECTION DISTRICT
 PRINCE GEORGE'S COUNTY, MARYLAND



PLANS APPROVED BY: *[Signature]*
 DATE: 5/25/2021
 WATER AND SCIENCE ADMINISTRATION
 NONTIDAL WETLANDS DIVISION
 MARYLAND DEPARTMENT OF THE ENVIRONMENT

LEGEND **IMPACT TYPE** **AREA OF IMPACT**
 [Blue Box] TEMP. DISTURBANCE TO EX. FLOODPLAIN 1,543 S.F.

— WUS — WATER OF U.S. LIMITS
 — LOD — LIMITS OF DISTURBANCE
 — FP — EX. 100 YR. FLOOD PLAIN
 — WL — WETLAND
 — WB — WETLAND BUFFER
 — — PROPOSED 100 YR. F.P.

100 YEAR FLOOD PLAIN TEMP. IMPACTS "B" - SCALE 1"=30' 04/21/2021



CAPITOL DEVELOPMENT DESIGN, INC.
 ENGINEERS - PLANNERS - SURVEYOR'S
 4600 PONDY MILL ROAD - SUITE 200 - BELTSVILLE, MD. 20705
 OFFICE (301) 937-3601 FAX (301) 937-3607

BRADBURY SUBDIVISION
 SQUALDINGS 6TH ELECTION DISTRICT
 PRINCE GEORGE'S COUNTY, MARYLAND

IMPACT SUMMARY

IMPACT AREA	PERMANENT DISTURBANCE TO WETLAND (SQ. FT.)	PERMANENT DISTURBANCE TO WETLAND BUFFER (SQ. FT.)	PERMANENT DISTURBANCE TO WUSA (SQ. FT.)	PERMANENT DISTURBANCE TO WUSA (L. FT.)	TEMPORARY DISTURBANCE TO WUSA (SQ. FT.)	TEMPORARY DISTURBANCE TO WUSA (L. FT.)	PERMANENT DISTURBANCE TO EX.100 YR. FLOOD PLAIN (SQ. FT.)	TEMPORARY DISTURBANCE TO EX.100 YR. FLOOD PLAIN (SQ. FT.)
A	41.00	1,567.00	1,487.00	140.00	232.00	21.00	6,634.00	1,153.00
B	0	0	0	0	393.40	23	0.00	1,543.00
TOTAL	41.00	1,567.00	1,487.00	140.00	625.40	44.00	6,634.00	2,696.00

PLANS APPROVED BY: *Eissa A. Riley*
 DATE: 5/25/2021
 WATER AND SCIENCE ADMINISTRATION
 NONTIDAL WETLANDS DISTRICT
 MARYLAND DEPARTMENT OF

IMPACT SHEET- NOT TO SCALE

04/21/2021



CAPITOL DEVELOPMENT DESIGN, INC.
 ENGINEERS - PLANNERS - SURVEYOR'S
 4600 POWDER MILL ROAD - SUITE 200 - BELTSVILLE, MD. 20705
 OFFICE (301) 837-3501 FAX (301) 837-3507

BRADBURY SUBDIVISION
 SQUALDINGS 6TH ELECTION DISTRICT
 PRINCE GEORGE'S COUNTY, MARYLAND



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, CORPS OF ENGINEERS
ATTN: REGULATORY BRANCH
2 HOPKINS PLAZA
BALTIMORE, MD 21201

IMPORTANT INFORMATION ABOUT YOUR PROJECT

Corps Permit Tracking No.: 202060848 Date: May 25, 2021
 Permittee/Project Name: Come Back Terps / Bradbury Subdivision
 MDSPGP-5 Activity No.: CAT A - e(9) Residential, Commercial, and Institutional Development Activit

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-5 (MDSPGP-5). 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-5 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-5 authorization for your project may be modified, suspended, or revoked.

As a condition of the MDSPGP-5 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-5 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-5 authorization is valid until September 30, 2021 unless the permit is modified, reissued, or revoked. You must remain informed of the changes to the MDSPGP-5. When changes to the MDSPGP-5 occur, a public notice announcing the changes will be issued. Be advised that you have 12 months from the effective date of the MDSPGP-5'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.

 SWENSON.DANIEL.PATTE
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 2019.10.22 10:06:08
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Daniel P. Swenson
 Chief, Regulatory Branch

 TRANSFEREE SIGNATURE DATE AREA CODE / TELEPHONE NO.

 PRINTED NAME ADDRESS



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, CORPS OF ENGINEERS
ATTN: REGULATORY BRANCH
2 HOPKINS PLAZA
BALTIMORE, MD 21201

Effective October 1, 2016

202060848

Corps Permit No.

CENAB-OPR-MDSPGP-5 (MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-5)

TO WHOM IT MAY CONCERN:

Upon 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-5. It has been determined that the project qualifies for the MDSPGP-5. 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-5 effective on October 1, 2016.

VII. General Conditions: To qualify for MDSPGP-5 authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any activity-specific impact limits and requirements identified in the Description of MDSPGP-5 Authorized Activities, and any case-specific special conditions imposed by the Corps.

A. General Requirements:

1. **Other Permits:** Authorization under the MDSPGP-5 does not obviate the need to obtain other Federal, State, or local authorizations required by law or to comply with all Federal, state or local laws.
2. **Geographic Jurisdiction:** This MDSPGP-5 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-5 must 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 identification and delineation of wetland boundaries must be accomplished in accordance with the current Federal manual for identifying jurisdictional wetlands and applicable supplemental guidance issued by the Corps of Engineers.
4. **Minimal Effects:** Projects authorized by the MDSPGP-5 must have no more than minimal individual and cumulative adverse environmental effects, as determined by the Baltimore District.

5. Discretionary Authority: Notwithstanding compliance with the terms and conditions of the MDSPGP-5, the Corps retains discretionary authority to require an alternate Corps permit review for any project under any categories of the MDSPGP-5 based on concerns for the aquatic environment or for any other public interest factor. 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-5.

Whenever the Corps notifies an applicant that an alternate Corps permit may be required, authorization under the MDSPGP-5 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-5.

6. Single and Complete Projects: The MDSPGP-5 must not be used for piecemeal work and must be applied to single and complete projects, including maintenance activities. For purposes of this MDSPGP-5, 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, must be reviewed together as constituting one single and complete project. The MDSPGP-5 must 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. The same activity under the MDSPGP-5 cannot be used more than once for the same single and complete project.

7. Use of Multiple MDSPGP-5 Activities: More than one MDSPGP-5 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-5 activity and the total extent of project impacts must not exceed the acreage and/or linear foot limit of the MDSPGP-5 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-5 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-5 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 must ensure that a copy of the MDSPGP-5 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 must 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 must 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 must 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 must 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.

B. National Concern:

1. **Historic Properties:** Any activity authorized by the MDSPGP-5 must comply with Section 106 of the National Historic Preservation Act. Maryland Department of the Environment, in cooperation with the Maryland Historic Trust, must 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 must 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. Upon discovery of any previously unknown historic, cultural, or archeological resources or remains while accomplishing the activity authorized by this permit, the permittee must immediately notify the Corps of what has been found, and avoid construction activities that may affect the resources or remains until the required coordination has been completed. The Corps will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. The permittee must 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. The Corps will conclude all tribal coordination in accordance with the District's tribal coordination procedures prior to verifying an activity authorized by MDSPGP-5.

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-5 must 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-5 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. Prior to application submittal, applicants must conduct an initial review for ESA resources, including FWS and/or NMFS species or critical habitat, utilizing the appropriate website(s) provided below. A complete permit application must contain evidence that the applicant has already contacted and received a response from the FWS and/or NMFS concerning any Federally listed or proposed threatened and endangered species and designated or proposed critical habitat that may be affected by the proposed activity. For FWS ESA species, an applicant must use the FWS Chesapeake Bay Field Office Project Review website (FWS website tool) provided below to determine if any Federally listed species are present in the proposed project area. A complete application must contain one of the following: *If species or designated critical habitat are determined to be present in the proposed project area using the FWS website tool:* A FWS Official Species List tailored for the proposed project area must be obtained and submitted with the application. An Official Species List is considered valid for 90 days. *If no listed species or designated critical habitat are determined to be present in the proposed project area using the FWS website tool:* A report that includes an online self-certification letter, map of action area, and Official Species List must be obtained and submitted with the application. For NMFS species and/or critical habitat, an applicant must use the NOAA Fisheries Species Information and Maps website (NMFS website tool) provided below to determine if any Federally listed species or critical habitat are present in the proposed project area. A complete application must include mapping depicting the project location in relation to any Federally listed species and/or critical habitat. For assistance please contact Mr. Brian Hopper of NMFS Fisheries at 410.573.4592. MDE must 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. MDE, in cooperation with MD DNR, must conduct an initial review and notify the Corps and FWS if any Federally listed species or critical habitat is likely to be in the vicinity of the project. The Corps must determine if consultation with FWS or NMFS is required under Section 7 of the ESA. If consultation is required, the applicant, after notification, must 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 the offices of the FWS and NMFS or their web pages at: <https://www.greateratlantic.fisheries.noaa.gov/protected/section7/guidance/maps/index.html> and, <http://www.fws.gov/chesapeakebay/EndSppWeb/ProjectReview/Index.html> respectively.

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 must 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 and Category B Activities within Tidal Waters and Wetlands:**

i. **Pile Driving for Category A Activities:** For the protection of listed species, pile driving methods must maintain noise level thresholds not to exceed 150 db re 1 μ Pa RMS or 206 dB peak re 1 μ Pa and must meet **one** of the following conditions:

- (1) Plastic or concrete piles must be less than 12 inches when a cushioned impact hammer or vibratory hammer is utilized for installation.
- (2) Timber piles must be 10 inches or less when a vibratory hammer is utilized for installation.
- (3) Vinyl or timber sheet piles must be 24 inches or less in width, as measured from the outer edge of corrugation to the inner edge of corrugation, when a cushioned impact hammer or vibratory hammer is used.
- (4) Pile driving activities must be located within freshwater tributaries or within tidal or nontidal wetlands.

- (5) Piles of any size/type with any hammer method must be installed behind diversion structures or in the dry when the tide is out in the intertidal zone.
- (6) Piles of any size/type with any hammer method must be installed between November 30 and March 15.

(Note: Any pile driving activity that does not meet one of the conditions above must be reviewed by the Corps as a Category B activity or an alternate Corps permit review process, as appropriate.

ii. **Pile Driving for Category A and Category B Activities:** For Category A and Category B activities, pile driving must be initiated with a soft start each day of pile driving, building up power slowly from a low energy start-up over a 20 minute period to allow for fish and other wildlife to leave the area.

iii. **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 during 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-5 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-5 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-5 process, an alternate Corps permit review process is required for the project.

6. **Wild and Scenic Rivers:** No activity is authorized under the MDSPGP-5 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-5 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 must 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 must 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/Missions/CivilWorks/NavMaps.aspx>

c. **Other Federally Authorized Civil Works Properties and/or Projects (e.g., flood control, dams, and reservoirs):** The MDSPGP-5 does not authorize interference to any proposed or existing Federally authorized civil works project.

d. **Activities Affecting Structures or Works Built by the United States:** Engineer Circular (EC 1165-2-216) provides policy and procedural guidance for processing requests by private, public, tribal, or other federal entities, to make alterations to, or temporarily or permanently occupy or use, any US Army Corps of Engineers (USACE) federally authorized civil works project, pursuant to 33 USC 408 (Section 408). Proposed alterations must not be injurious to the public interest or affect the USACE project's ability to meet its authorized purpose. The decision on a Department of the Army permit application pursuant to Section 10/404/103 cannot and will not be rendered prior to the decision on the Section 408 request. An activity that requires Section 408 permission is not authorized by the MDSPGP-5 until the Corps issues the Section 408 permission to alter, occupy, or use the USACE project, and the Corps issues a written MDSPGP-5 verification.

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;

e. Damage claims associated with any future modification, suspension or revocation of the MDSPGP-5 or any specific MDSPGP-5 verification.

9. **Navigation:** Projects authorized under the MDSPGP-5 must not cause interference with navigation, and no attempt must 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-5. Nothing in the MDSPGP-5 must 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.A.9.)

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.

12. Migratory Birds and Bald and Golden Eagles: The permittee is responsible for obtaining any "take" permits required under the FWS's regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the FWS to determine if such "take" permits are required for a particular activity.

13. Environmental Justice: Activities authorized under this MDPSGP-5 must comply with Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations."

14. Hazardous Wildlife Attractants On or Near Airports: Permittees must consider the activity's effects on aviation safety and design a project so it does not create a wildlife hazard. All authorized activities that may attract hazardous wildlife must be consistent with the siting criteria and land use practice recommendations stated in Section 1-3 of the Federal Aviation Administration Advisory Circular 150/5200-33. This document can be found at: http://www.faa.gov/documentLibrary/media/advisory_circular/150-5200-33B/150_5200_33b.pdf

15. Water Quality Certification: Permittees must satisfy any conditions imposed by the State of Maryland and EPA, where applicable, in their Water Quality Certification for the MDSPGP-5 pursuant to Section 401 of the Clean Water Act. On September 13, 2016, the Maryland Department of the Environment issued WQC for the MDSPGP-5 subject to the condition that the applicant obtains all necessary State permits and approvals. The Corps or State may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

16. Coastal Zone Management Consistency (CZM): The Corps determined that all activities authorized under the MDSPGP-5 will be carried out in a manner consistent with the Coastal Zone Management Program pursuant to Section 307 of the Federal Coastal Zone Management Program of 1972, as amended. On September 13, 2016, the Maryland Department of the Environment concurred with the Corps' determination provided that the applicant obtains all necessary State permits and approvals. Permittees must satisfy any additional conditions imposed by the State of Maryland in their CZM concurrences for the MDSPGP-5.

17. **Coastal Barrier Resources Act (CBRA):** Federal funding for certain activities requiring Corps authorization may be prohibited within the established Coastal Barrier Resources System, which is a defined set of coastal barrier units located along the Atlantic, Gulf of Mexico, Great Lakes, U.S. Virgin Islands, and Puerto Rico coasts. Activities authorized under the MDSPGP-5 must comply with the CBRA. More detailed information can be found at: <http://www.fws.gov/cbra>.

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, both temporary and permanent, must be avoided and minimized to the maximum extent practicable at the project site (i.e., on-site). Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

2. **Mitigation Standards:** The Corps will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the adverse effects on the aquatic environment are minimal and that the project is eligible for authorization under the MDSPGP-5:

a. **Wetlands:** Compensatory wetland mitigation at a minimum one-for-one ratio will be required for all permanent tidal or nontidal wetland losses that exceed 5,000 square feet and that require an application submittal for Corps authorization, unless the Corps determines in writing that either some type of mitigation or ratio of mitigation other than a one-to-one ratio would be more appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 5,000 square feet or less that require an application submittal for Corps authorization, the Corps may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. 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. Maintenance of previously authorized activities typically does not require mitigation. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

b. **Streams and Other Open Waters:** Compensatory mitigation at a minimum one-for-one ratio will be required for permanent losses of streams or other open waters that exceed 200 linear feet and that require an application submittal for Corps authorization, unless the Corps determines in writing that either some other type of mitigation would be more appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. Compensatory mitigation, such as stream rehabilitation, enhancement (including enhancement of riparian buffers), or preservation, focusing on functional replacement, may be required to ensure that the activity results in minimal adverse effects on the aquatic environment. In addition, compensatory mitigation plans for losses of streams and other open waters will normally include a requirement for the restoration or establishment, maintenance, and site protection of riparian areas next to open waters. 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. Typically, the riparian

area will not be less than 25 feet wide on each side of the stream, but the Corps may require wider riparian areas to address documented water quality or habitat loss concerns. Furthermore, the Corps may determine that restoration or establishment of a riparian area along a single bank or shoreline is sufficient when it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters.

c. All compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR Part 332.

d. The applicant is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment. Applicants may propose the use of mitigation banks, in-lieu-fee programs, or separate permittee-responsible mitigation.

e. When permittee-responsible mitigation is the proposed compensatory mitigation option, the applicant is responsible for submitting a compensatory mitigation plan. A conceptual or detailed mitigation plan may be used by the Corps to make the decision on the MDSPGP-5 verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the Corps prior to the commencement of work in waters of the United States. The special conditions of the MDSPGP-5 verification must clearly indicate the party or parties responsible for the implementation, performance, and, if required, the long-term management of the permittee-responsible compensatory mitigation project.

f. When mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number and resource type of credits to be provided. The special conditions of the MDSPGP-5 verification must either identify the specific mitigation bank or in-lieu fee program, or state that the specific mitigation bank or in-lieu fee program used to provide the required compensatory mitigation must be approved by the Corps before the credits are secured and prior to the commencement of the work in waters of the United States.

g. For losses 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.

h. Compensatory mitigation will not be used to increase the impact thresholds allowed by the acreage limits of the MDSPGP-5. For example, if an activity has an acreage limit of ½ acre, it cannot be used to authorize any project resulting in temporary and permanent impacts greater than ½ acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the impacted waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the terms and conditions, including the acreage limits, also satisfies the minimal impact requirement associated with the MDSPGP-5.

3. Work in Wetlands: Heavy equipment working in wetlands must be avoided if possible and, if required, soil and vegetation disturbance must be minimized by using techniques such as timber mats, geotextile fabric, and vehicles with low-pressure tires. Disturbed areas in wetlands must 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-5. Temporary fill (e.g., access roads, cofferdams) in waters and wetlands authorized by the MDSPGP-5 must be properly stabilized during use to prevent erosion. Temporary fill in wetlands must be placed on geotextile fabric laid on the existing wetland grade. Upon completion of the work, all temporary fills must be disposed of at an upland site, suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas must 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, must be used to reduce erosion and retain sediment on-site during and after construction. These devices and methods must be capable of (a) preventing erosion, (b) collecting sediment and suspended and floating materials, and (c) filtering fine sediment. Erosion and sediment control devices must be removed when the work is complete and the site has been successfully stabilized. The sediment collected by these devices must 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 must be permanently stabilized at the earliest practicable date. In-stream work must 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 culverts 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 must 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 adjacent wetlands, except for instances where the existing on site conditions would require a diagonal crossing of the waterway. Where a utility line or access road is constructed parallel to a stream corridor, an undisturbed buffer must 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 must cross streams only at suitably constructed permanent or temporary crossings.

e. Temporary structures and fills must 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-5 and that involve any discharge or relocation of pollutants into waters of the United States must 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, must be avoided. Impacts to these areas must 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 (as determined by National Marine Fisheries Service and/or FWS) are not authorized by this MDSPGP-5.

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

11. Environmental Values: The permittee must make every reasonable effort to construct or operate the work authorized under the MDSPGP-5 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 must 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-5. 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-5 verification must 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-5 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-5 verification, including any general and/or specific conditions. If the activity was not done in accordance with the MDSPGP-5 verification, including any general and/or specific conditions and requirements, the permittee must 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 must 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 must be sent to the Baltimore District at the following address:

**U. S. Army Corps of Engineers
Baltimore District
Attn: Regulatory
2 Hopkins Plaza
Baltimore, Maryland 21201**

3. Transfer of MDSPGP-5 Verifications: If the permittee sells the property associated with a MDSPGP-5 verification, the permittee may transfer the MDSPGP-5 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-5 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-5 are still in existence at the time the property is transferred, the terms and conditions of this MDSPGP-5, including special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this MDSPGP-5 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 must properly maintain the work or structure authorized by the MDSPGP-5 in good condition and in compliance with the terms and conditions of the MDSPGP-5, including maintenance to ensure public safety.

5. **Property Rights:** The MDSPGP-5 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-5, 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 must not be the basis for any claim for damages against the United States. The Corps will issue a public notice announcing any changes to the MDSPGP-5 when they occur; however, it is incumbent upon the permittee to remain informed of any changes to the MDSPGP-5

7. **Restoration:** The permittee, upon receipt of a notice of revocation of authorization under the MDSPGP-5, may be required to 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-5, 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 Corps or MDE verifies the project under the MDSPGP-5 and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the MDSPGP-5 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-5, which includes the MDSPGP-5 authorized activity activity-specific requirements,

constitutes unauthorized work and is subject to an enforcement action by the Corps or the EPA. Furthermore, the MDSPGP-5 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.



**DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, CORPS OF ENGINEERS
ATTN: REGULATORY BRANCH
2 HOPKINS PLAZA
BALTIMORE, MD 21201**

202060848

Corps Permit Tracking No.

**MDSPGP-5
ACTIVITY e (9)
Residential, Commercial and Institutional Development**

The authorized Residential, Commercial, and Institutional Development activities must comply with the following applicable activity specific conditions indicated by an "X" in the boxes below, all general conditions of this permit, and any project-specific special conditions.

This activity authorizes the discharges of dredged or fill material into nontidal waters of the United States associated with residential, commercial, and institutional development activities, including the construction or expansion of residential, commercial, or institutional building foundations, building pads, and attendant features that are necessary for the use and maintenance of the structures. This activity also authorizes temporary structures, work, and discharges of dredged or fill material necessary for construction activities including but not limited to stream diversion devices, access fills, structures and/or fills for dewatering of construction sites, and placement of construction matting. Attendant features may include, but are not limited to, roads, parking lots, garages, yards, sidewalks, utility lines, stormwater management facilities, and recreational facilities such as playgrounds, playing fields, trails, and golf courses (provided the golf course is an integral part of the residential development). Residential developments include a single residence, multiple and single unit developments, and/or a residential subdivision. Examples of commercial developments include retail stores, industrial facilities, restaurants, business parks, and shopping centers. Examples of institutional developments include schools, libraries, hospitals, places of worship, and municipal buildings (e.g., fire and police department buildings, judicial buildings, public works buildings, government office buildings, etc.). The construction of new golf courses (unless an integral part of a residential development), new ski areas, or oil and gas wells are not authorized by this activity. (Sections 10 and 404, limited to nontidal waters of the United States, including navigable nontidal Section 10 waters, e.g., Potomac and Susquehanna Rivers, etc.).

New crossings of all waters of the United States will be reviewed based on the following order of preference: (a) bridge, (b) bottomless arch culvert, and (c) pipe or box culvert. Written documentation is required to support the preferred crossing method.

Category A Impact Limits and Requirements:

- (i) The total temporary and permanent impacts to nontidal waters of the United States, which includes nontidal wetlands, streams, rivers, and other open waters, are not to exceed 5,000 square feet of waters of the United States and/or 200 linear feet of nontidal streams, rivers, or other open waters.

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ACTIVITY (e-9)

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- (ii) Category A does not authorize the discharge of fill into streams for the construction of berms for in-line (i.e., in-stream) stormwater management facilities, permanent dikes, weirs, dams, water withdrawals, or water diversions. It also does not authorize the construction of any kind of pond that would impound water into a stream or wetland. Category B or alternate Corps permit review procedures are required for construction of these ponds or stormwater management facilities.
- (iii) Limit-of-disturbance for the construction of utility lines within nontidal waters of the United States, including wetlands, must be limited to the minimum width necessary and not to exceed 30 feet in width.
- (iv) The utility line must make a direct or perpendicular crossing of any stream channel except for instances where the existing on site conditions would require a diagonal crossing of the waterway.
- (v) Open-cut pipeline installation within adjacent jurisdictional wetlands must not parallel a stream channel for more than 100 feet along the ordinary high water mark.
- (vi) The top of the cable, encasement, or pipeline shall be located a minimum of 3 feet below the existing bottom elevation of the streambed and generally does not require any riprap protection in-stream. When the utility is placed in bedrock, a minimum depth of 1 foot from the lowest point in the natural contour of the streambed shall be maintained.
- (vii) This Category A activity does not authorize work in navigable waters under Section 10 of the Rivers and Harbors Act of 1899, (e.g., Potomac River, Susquehanna River, Chesapeake Bay, all tidal tributaries, etc.), tidal wetlands, and nontidal wetlands adjacent to tidal waters. It must be reviewed under Category B or alternate Corps permit review procedures, as appropriate.
- (viii) 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.
- (ix) 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.
 - (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

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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.

Category B Impact Limits and Requirements:

- (i) The total temporary and permanent impacts to nontidal waters of the United States, which includes nontidal wetlands, streams, rivers, navigable waters, and other open waters, are not to exceed 1/2 acre (21,780 square feet) of waters of the United States and/or 2,000 linear feet of nontidal streams, rivers, or other open waters.
- (ii) For all submerged utility lines across navigable waters of the United States, the cross-sectional view drawing submitted with the application shall show the utility line crossing from bank to bank in relationship to the waterway bottom. In addition, the location and depth of the Federal navigation channel shall be shown in relation to the proposed utility line.
- (iii) As built drawings: Within 60 days of completing an activity that involves an aerial transmission line, submerged cable, or submerged pipeline across a navigable water of the United States (Section 10 waters), the permittee must furnish the Corps and the National Oceanic and Atmospheric Administration, Nautical Data Branch, N/CS26, Station 7317, 1315 East-West Highway, Silver Spring, Maryland 20910 with professional, certified as-built drawings, to scale, with control (i.e., latitude/longitude, state plan coordinates), depicting the alignment and minimum clearance of the aerial wires above the mean high water line at the time of the survey or depicting the elevations and alignment of the buried cable or pipeline across the navigable waterway (Section 10 waters).
- (iv) 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.
 - (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.

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- (3) All permanent culvert pipes greater than 24 inches in diameter and bridge/arch footers placed in streams must be countersunk in accordance with condition (1) above (except those placed in streams on bedrock or over buried utility lines), unless the Corps and MDE waives the countersinking (i.e., depressing) requirement by making a written determination concluding that countersinking is not practicable and will result in minimal adverse effects.
- (4) If countersinking of the culvert or footer is not practicable in accordance with condition (1) above (except those placed in streams on bedrock or over buried utility lines), 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/footer, cost, and engineering factors that prohibit depressing the culvert/footer. Preferred alternative options that must be considered include the use of a bridge or bottomless pipe. Other alternative options may include partial depression or other measures to provide for the movement of aquatic organisms. This 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 migratory fish passage.

Requirements Applicable to Both Category A and Category B Activities:

- (i) Application must be submitted to MDE for Corps authorization.
- (ii) The construction of new golf courses (unless an integral part of a residential development), new ski areas, or oil and gas wells are not authorized by this activity.
- (iii) Impacts shall be minimized by selection of a utility alignment that avoids and minimizes wetland and waterway impacts to the maximum extent practicable. Directional drilling, jack and bore, missile, or similar methods are the preferred method of installation.
- (iv) Clearing of wetlands and fragmentation of large tracts of forested wetlands shall be minimized by routing utility lines outside forested wetlands and forested tracts, or on the edges of forested tracts.
- (v) When underground utility lines are installed in streams and wetlands, the trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers; creating a French drain effect). Clay plugs, impervious membranes, or other materials may be placed in the trenches to ensure that the trench does not drain the waters of the United States through which the utility line is installed.
- (vi) Utility lines installed below the plane of the ordinary high water mark of any stream or waterway shall be constructed under dry conditions, using stream diversions other than earthen cofferdams.

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- (vii) In wetlands, the top 6 to 12 inches of the trench must be backfilled with the top 6 to 12 inches of topsoil removed from the trench.
- (viii) Excavated material must not be stockpiled in wetlands for longer than 14 days. Excavated material must be stabilized with straw bales, silt fence, or other erosion and sediment control measures to prevent reentry of soil into waters of the United States.
- (ix) Immediately after completion of construction of the utility line through the wetlands area, excess excavated material must be disposed of in an upland area 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.
- (x) Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations and revegetated with native wetland species.
- (xi) Extensions of existing pipes or culverts that are not depressed below the stream invert are exempt from the requirement to depress the culvert.
- (xii) Any temporary construction structures or materials (i.e., access roads, fill, dewatering devices, stream diversions, etc) must be removed within 14 calendar days after the structure is no longer needed, subject to any time of year restrictions. The affected areas must be returned to pre-construction conditions which include contours, elevations, stream substrate and re-vegetate with native wetland species. If time-of-year restrictions interfere with the removal of the structures, the permittee must immediately contact the Corps and/or MDE Project Manager for further instruction.
- (xiii) Exposed slopes and stream banks must be stabilized and revegetated, preferably with native, woody species, immediately after construction of the utility line is completed.
- (xiv) When mechanized landclearing results in the permanent removal or conversion of a forested or scrub-shrub wetland to an herbaceous wetland in the permanently maintained utility right-of-way, compensatory mitigation is required to offset the adverse effects of the project. This is in addition to the requirement to mitigate for other permanent wetland and nontidal stream impacts resulting from the discharge of dredged or fill material. Stream relocation using natural stream design is generally considered to be self-mitigating.
- (xv) If not using the preferred crossing options such as use of a bridge or bottomless arch, the applicant must provide a narrative with their joint permit application that documents the measures evaluated to minimize impacts to waters of the U.S., as well as specific documentation concerning site conditions and limitations on utilizing the preferred options including cost, and engineering factors and site specific limiting factors. This documentation must also include photographs documenting site conditions.

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(xvi) For any regulated activity that involves the construction of a wind energy generating structure, solar tower, or overhead transmission line, a copy of the application and MDSPGP-5 verification will be provided to the Department of Defense Siting Clearinghouse by the Corps to evaluate potential effects on military activities.

Project-Specific Special Conditions apply (See Corps verification letter for these conditions.)



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, CORPS OF ENGINEERS
ATTN: REGULATORY BRANCH
2 HOPKINS PLAZA
BALTIMORE, MD 21201

Operations Division

MDSPGP-5 PERMIT COMPLIANCE CERTIFICATION FORM (10/1/16)

Corps Permit Tracking No. 202060848
Category & Activity Number CAT A - e(9) Residential, Commercial, and Institutional Development Activities
Project Name Bradbury Subdivision
Applicant Name Come Back Terps
Waterway Oxon Run
County Prince George's County

Dear Permittee:

In accordance with the compliance certification condition of your MDSPGP-5 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-OPR, 10 S. Howard Street, Baltimore, Maryland 21201.

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-5 authorization, including all general and/or specific conditions? YES ___ NO ___
4. MDSPGP-5 projects authorized under Category A involving pile driving activities that are within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries must meet one of the following conditions for the protection of listed species (See Section VII.B.4.c(1) of the MDSPGP-5). Pile driving activities may include but are not limited to, pier construction, marina reconfiguration, bulkhead construction, boat ramp finger pier construction, sheet pile driving, etc. Please place an "X" below next to the pile driving method(s) that was used for the authorized pile driving work:

- _____ (a) Plastic or concrete piles must be less than 12 inches when a cushioned impact hammer or vibratory hammer is utilized for installation.
- _____ (b) Timber piles must be 10 inches or less when a vibratory hammer is utilized for installation.
- _____ (c) Vinyl or timber sheet piles must be 24 inches or less in width, as measured from the outer edge of corrugation to the inner edge of corrugation, when a cushioned impact hammer or vibratory hammer is used.
- _____ (d) Pile driving activities must be located within freshwater tributaries or within tidal or nontidal wetlands.
- _____ (e) Piles of any size/type with any hammer method must be installed behind diversion structures or in the dry when the tide is out in the intertidal zone.
- _____ (f) Piles of any size/type with any hammer method must be installed between November 30 and March 15.

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

6. Wetland Mitigation: Required? YES _____ NO _____
- a. Maryland State Wetlands Compensation Fund used? YES _____ NO _____
 - b. Required Completion Date: _____

7. Wetland Mitigation Completed? YES _____ NO _____ Date Completed: _____
- a. 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

Signature of Contractor/Agent

Date

Address

Contractor Address

Telephone:

Contractor Telephone