August 28, 2019

Ms. Jennifer Bird
Maryland Department of the Environment
MDE Consultant Reviewer
MDE Wetlands and Waterways
1800 Washington Boulevard
Baltimore, MD 21230

RE: I-95 Express Toll Lanes (ETL) Northbound Extension Phase II
MDTA Tracking #s KH-3019, KH-3020, KH-3021, KH-3022,
KH-3023, KH-3027, KH-3029, KH-3030, KH-3031
Harford County, MD
Joint Permit Application Amendment - MDE Tracking No. 201960846/19-NT-0150
AI Number: 160464

Dear Ms. Bird,

The Maryland Transportation Authority (MDTA) is pleased to submit this amendment to the previously submitted Joint Permit Application (JPA) with supporting documents for Phase II of the I-95 Express Toll Lanes (ETL) Northbound Extension Project in Harford County, Maryland. A previous amendment was submitted to the Maryland Department of the Environment (MDE) on August 1, 2019; comments in response to that submission were received from MDE on August 15, 2019. The application package has been revised as a result of the comments received and a point-by-point response to those comments is included below.

As this is a resubmission, and per request from the United States Army Corps of Engineers (USACE), this submittal is being made digitally only. Revised impact plates and impact summary tables were submitted on August 23, 2019, per agency request, but are also included in this submittal; these plates have not changed in the interim. However, shortly before this submittal, it was determined that an unavoidable design change within KH-3022 – Clayton Road Overpass would result in minor increases to stream impacts. Therefore, KH-3022 impact plates have been revised and are also attached. Impact totals have been revised accordingly within the impact summary tables.

The following revised items are included in this submission:

- Pages 1 and 2 of the JPA
- Impact summary tables
- Impact plates:
  - KH-3019 - MD 152 Interchange
  - KH-3020 - I-95 NB Extension to Bynum Run
  - KH-3021 - MD 24 Interchange
  - KH-3022 - Clayton Road Overpass
  - KH-3023 - MD 24/MD 924 Park and Ride
  - KH-30XX - Lilly Run Stream Mitigation
  - KH-30XX - Mill Creek Mitigation Site
- Compensatory Mitigation Plan, including Phase II Mitigation Plan Checklists
- Agency Coordination Letters
- MD 152 Park and Ride (P&R) Alternatives Analysis

Please find below a point-by-point response to MDE comments dated August 15, 2019 regarding the above referenced permit application.

Nontidal Wetlands and Waterways Comments:

1. Although the SWM facility at the MD 152 Park N Ride was significantly revised, reducing impacts, many SWM facilities are still shown within forested wetlands along the I-95 corridor. Please continue to relocate these facilities to the maximum extent possible prior to public notice issuance and provide revised impact graphics by August 23, 2019. MDTA will need to significantly reduce the amount of impacts to wetlands from SWM. A list of impact plates of concern is included with this response.

   SWM facilities were relocated to the maximum extent possible; however, a Baltimore City owned 108" watermain and the 60-foot easement in which it is sited present a major constraint for the placement of SWM facilities. Baltimore City has restricted the MDTA from placing any SWM facility within this 60-foot easement; therefore, the designers are forced to a large extent to work within the existing topography. When a facility could not fit between the roadway and the watermain easement, it was placed on the other side of the easement. In addition, extensive wetland and stream resources are located throughout the project area, and in many cases relocating a SWM feature would increase overall impacts.

   As a result of the SWM reconfiguration, impacts were reduced by 6,544 SF to PFO wetland, 2,055 SF to PEM wetland, 609 LF to perennial stream, 65 LF to intermittent stream, and 24 LF to ephemeral stream. The plates identified by MDE in the August 15, 2019 comments were located within the KH-3019 MD 152 Interchange project. The plates revisited, along with whether impacts could be successfully reduced and why, are summarized in the table below.

KH-3019		
Plate	Reduced Impact	Reason
2	N	The facility cannot be shifted west due to the Old Joppa Road Overpass, east due to the existing culvert/WUS 20A, or closer to I-95 to lower the impacts. If this facility is made smaller, it will not be able to meet SWM requirements. No changes in impacts.
7	Y	This facility cannot be placed within Baltimore City's 60-foot easement for the 108" watermain. Based on the existing grades the facility cannot be shifted to the east to avoid the wetlands. However, now that E&S design has progressed, the impacts have been reduced by pulling in the LOD.
8	N	The facility on the right cannot be shifted to the east or west due to the existing POI limitations or to the north because Baltimore City will not allow SWM facilities to be placed within the 108" watermain easement. The facility on the left cannot be oriented in a fashion to further minimize impacts to all of the surrounding wetlands (WET 13A PEM, WET A-17 PFO, and both WET A-18 PFOs), stay within the state ROW and stay out of the 60-foot easement for the 108" watermain. If either facility is reduced in size, it will not meet SWM requirements. Now that E&S design has progressed, the LOD has been pulled in, to the extent practicable; however, the wetland is still a total take and impacts have therefore not changed.
22	Y	The facility and LOD have been shifted as close as possible to the proposed I-95 improvements, resulting in the reduced impacts shown.
23	Y	The facility is currently maximized between the proposed I-95 improvements and WUS A-16. The LOD can shift towards the I-95 improvements reducing impacts as shown. Impacts to the wetland cannot be avoided but impacts to Waters G and Waters NN were decreased.
25	Y	The facility is placed as close to the existing roadway as possible. Now that E&S design has progressed, the impacts have been reduced by pulling in the LOD as shown. Impacts were reduced substantially to the wetland and it is no longer a total take.
30	Y	The facilities cannot shift to the east or west due to the existing POIs or to the north because Baltimore City will not allow SWM to be placed within the 60-foot easement for the 108" watermain. The facilities cannot shift to the south due to the existing terrain dropping off towards an existing stream, which would result in the placement of fill within the 100-year floodplain. However, now that the E&S design has progressed, the LOD has been pulled in, reducing impacts.
32	N	This facility cannot shift to the north because it cannot be placed within Baltimore City's 60-foot easement for the 108" watermain. It cannot shift to the east towards Winters Run and shifting to the west will still impact WET A-7 PEM. The facility cannot shift south due to the existing terrain dropping off to an existing stream and the

KH-3019		
Plate	Reduced Impact	Reason
		WET A-7 will continue to be impacted. If the facility is made smaller will not be able to meet SWM requirements. No changes were made to the plates.
36	N	This facility is confined between the proposed ramp, the Forest View community on the hillside, the required ditch grading on to the east and the POI/WUS A-1 INT. In addition, the LOD needs to be increased based on the design requirements for the proposed culvert, resulting in increases to stream impacts.
38	N	This facility cannot shift to the north because it cannot be placed within Baltimore City's 60-foot easement for the 108" watermain. The facility cannot shift south or east due to the existing terrain/WUS A-3 PER/WET A-3 PFO/limited drainage requirements. It cannot shift to the west due to the existing terrain, the existing/proposed drainage areas and the resulting increased wetland impacts. No changes to the plate.
39	Y	This facility is the same as Plate 38 and cannot shift to the north because it cannot be placed within Baltimore City's 60-foot easement for the 108" watermain. The facility cannot shift south or east due to the existing terrain/WUS A-3 PER/WET A-3 PFO/limited drainage requirements. It cannot shift to the west due to the existing terrain, the existing/proposed drainage areas and the resulting increased wetland impacts. However, now that E&S design has progressed, impacts were able to be reduced by pulling in the LOD.
41	Y	These facilities are squeezed in between the roadway and the 60-foot easement for Baltimore City's 108" watermain, in which SWM facilities are not permitted. If the facilities were moved to the other side of the easement, there would be additional wetland and WUS impacts. However, now that E&S design has progressed, impacts are able to be reduced by pulling in the LOD.

2. MDE does not have a record of this submittal [the alternatives analysis for the MD 152 Park n Ride], please provide as a PDF.

   Response: A hard copy of the presentation documenting the Alternatives Analysis is provided with this response; see the MD 152 P&R Alternatives Analysis section.

3. Please provide a date by which the NEPA Reevaluation will be completed. Please be aware that all documents provided to MDE are made available to the public upon request.

   Response: Completion of the NEPA Reevaluation is anticipated by the end of September 2019. However, please note that the NEPA Reevaluation is an internal FHWA document and cannot be shared with the public without prior approval from FHWA.

4. Please address the following comments regarding the Compensatory Mitigation Plan:
   a. The [Compensatory Mitigation Plan] submittal must comply with the Phase II mitigation plan checklist. There are a number of items not addressed in the [October 2016 Phase II Mitigation Plan – Required Information] checklist, please re-submit with all items provided, including a 25-foot buffer around the stream restoration and wetland creation areas, MDE Best Management Practices; and other items requested in the attached checklist.

      Response: Individual Phase II checklists are being provided for each proposed mitigation site and are included in the appendices of the Compensatory Mitigation Plan. As the sites are in various stages of design, some checklists are more complete than others. With each future design submission, revised, updated checklists will be provided for each mitigation site. MDTA has included as much detail as possible for each site; however, some information is not yet available and will be provided in future design submissions. MDE Best Management Practices and 25-foot buffers surrounding stream restoration/wetland creation areas are included.

   b. Given the size of the mitigation requirement for this project and the fact that wetland mitigation is required, the Long-Term Management Plan for the mitigation should be comparable to what is required for mitigation banks. Additionally, MDE requires a Conservation Easement with a third party or a Declaration of Restrictive Covenant. Templates and guidance are included with this response. Previous phases of the I-95 ETL project were initiated prior to the 2008 Mitigation Rule; however, the current phase is not grandfathered from the 2008 Mitigation Rule.

      Response: The Long-Term Management Plan for Eccleston is now attached to the Compensatory Mitigation Plan as an appendix. The Eccleston Site has a long-term steward identified and a template conservation easement has been drafted. MDTA is currently negotiating Memoranda of Understanding with both the City of Havre de Grace and the Town of Perryville for the Lilly Run and Mill Creek sites. Site Protection Mechanisms and detailed Long-Term Management Plans for each of the restoration sites will be included as conditions for each agreement.

   c. The Phase II Approval from Phase I of the ETL states there are excess credits to be used for future projects. Please clarify how there are insufficient credits remaining to be included in the Phase II mitigation package.

      Response: While excess credits exist from Phase I, MDTA would like to reserve those credits in case Phase I impacts should increase for some reason. While this is unlikely, MDTA would prefer to over mitigate for Phase II rather than potentially face a shortfall in Phase I. Any excess credits from Phase I or Phase II can then be applied to future MDTA projects.

   d. Please confirm that the proposed mitigation credits are calculated after removing the total impacts at each of the mitigation sites.

      Response: Confirmed – mitigation credits have been calculated after removing total impacts for each mitigation site.

e. Note that USACE is reviewing the credits calculated for the mitigation sites and will provide comments regarding credits to MDTA.

Response: Noted. USACE has stated that credits associated with Lilly Run and Mill Creek are acceptable as presented. USACE has reviewed the credits calculated for the Eccleston Site and has presented the credits to MDE for their review and comment. MDTA has not yet heard back from USACE regarding the credit calculations; therefore, MDTA cannot provide the figures at this time. Proposed Eccleston mitigation credits are highlighted yellow in the Compensatory Mitigation Plan to reflect their draft status.

f. Additionally, the following comments relate to Mill Creek:

i. Show site protection mechanism

Response: MDTA is currently in negotiations with the Town of Perryville to establish a Memorandum of Understanding (MOU) for the project, which is on the Town of Perryville property. The site protection mechanism will be part of that MOU and will likely either be a Declaration of Restrictive Covenants or a Conservation Easement. As this property is owned by the Town of Perryville and other compensatory mitigation projects have been performed on the parcel, it is reasonable to assume that the parcel is already protected in perpetuity.

ii. Re-evaluate the LOD extending from ST – 1 of 2 to ST-2 of 2 across an "existing abandoned building to remain". Does the LOD extend upstream to include the gabion basket area should remediation be necessary during the design phase?

Response: The concept plan presented has been superimposed on plans for a previous project. Since the completion of that project, the feature labeled "existing abandoned building to remain" has been removed by the Town of Perryville. The "existing abandoned building to remain" text has been struck out on the revised concept plan, included as an appendix in the Compensatory Mitigation Plan. The LOD does extend upstream to include the gabion basket area and this portion of the stream has been included in the calculations as impacts. The gabion baskets will be further evaluated as design progresses to determine if removal of these features will be included in the project.

iii. Guidance to leave the existing concrete wall in place seems to conflict with the LOD where work will occur from the right bank and likely damage the concrete retaining wall. Should the gabion area require remediation, realign LOD to also avoid trees along the streambank that were previously saved.

Response; The LOD has been offset from the existing concrete wall by 6 feet to ensure that the wall is not damaged; it has also been realigned to avoid the trees along the streambank that were previously saved.

iv. Please provide a proposed stream profile showing the location of proposed structures.

Response: Due to the preliminary nature of the design, this information will be provided in a future submission.

v. Provide cross sections reflecting the proposed grading for the rock step pool in accordance with the Phase II checklist.

Response: Due to the preliminary nature of the design, this information will be provided in a future submission.

vi. Provide a planting plan for all disturbed areas in accordance with the Phase II checklist.

Response: Due to the preliminary nature of the design, this information will be provided in a future submission.

vii. The design should be based off of As-Built drawings or recent survey that reflects the current site conditions after the stream mitigation required for the Principio Business Park Site-F project was completed.

Response: MDTA is in the process of obtaining as-builts for the previous project from the Town of Perryville. All future submissions will be based off of the approved as-built drawings, or off of recent survey if as-builts are not available.

g. The following comments relate to Lilly Run:

i. Include all items in the Phase II checklist

Response: A Phase II checklist for the Lilly Run site has been added to the Lilly Run appendix of the Compensatory Mitigation Plan included with this response.

ii. Add buffers, existing tree line, and site protection mechanism as noted on checklist. If not forested, provide notes stating land cover (i.e. maintained grass area).

Response: Land-use information and buffers have been added to the plans, which have been included in the Lilly Run appendix of the Compensatory Mitigation Plan. MDTA is currently negotiating a Memorandum of Understanding with the City of Havre de Grace for the site. The site protection mechanism will be included in the document and will either be a Declaration of Restrictive Covenants or a Conservation Easement.

iii. Add information for crossings such as culvert types and dimensions of stormwater infrastructure. CMP pictured on page 11 of design report is heavily corroded and clogged. Are any improvements to culverts/pipes proposed?

Response: The CMP culvert pictured on page 11 of the report is proposed to be removed and a C-type stream channel be constructed in its place as stated on page 24 of the design report. The intent of the CMP culvert and C-type stream will be clarified on the plans. Labels have been added to the plans for pipe information; however, full survey has not been completed and information on pipe size and type is labeled only where available. No additional pipe/culvert replacements are proposed.

iv. Although stockpile areas can be inferred, show graphically. Also, show the 100-year floodplain to ensure stockpiles are not located within the floodplain.

Response: The 100-year floodplain is included on the plans. It should be noted that the majority of the project's LOD is located within the 100-year floodplain and there are no viable areas within the LOD for the proposed stockpile to be located outside of the floodplain. A flood action plan will be included upon final design of the project to ensure that the stockpile areas won't affect the stream during out of bank events.

v. Why is access proposed from the Amtrak Train Tracks vs the existing parking lot? Seems this could bisect to the two existing wetlands and also be used for stockpiling to reduce the LOD.

Response: The note calling out parking lot south of Reach 4 was mislabeled as has been clarified. Access to the site is proposed from South Juniata Street.

vi. Minimize LOD surrounding Reach 2. Why is the access road so far away from the proposed channel? No need to impact wetland pocket and buffer near Fountain Street.

Response: The LOD has been updated to minimize impacts to the wetland pocket. The access road has been updated. The access road is further away from the proposed channel to give enough space to construct the proposed floodplain width. The floodplain boundary has been added to the plans.

vii. Clarify/explain the proposed hydrology source to the wetland feature proposed adjacent to Reach 3.

Response: The report has been updated in include more information about how the wetland feature will function and connect hydraulically to the stream system. Page 30 of the report details the function of the wetland feature.

viii. Reach 1 has three proposed stabilized construction entrances, two to the west and one to the east. Consider eliminating one entrance on the west.

Response: One of the west stabilized construction entrances has been removed.

ix. Show railroad tie walls present along Reach 1 and provide specifications for its removal.

Response: The approximate railroad tie wall locations have been added to the plans. Specifications will be provided in a future submission.

x. LOD nearest Reach 4 seems to unnecessarily impact wetland pockets and their buffers.

Response: The LOD has been updated to avoid the wetlands. However, some impacts to the buffer are still needed.

xi. Where the new channel is proposed it is not clear what is happening with the old channel.

Response: The plans have been updated to indicate that the old channel will be partially filled to be level with the proposed floodplain.

xii. Proposed profile and cross sections not provided.

Response: A typical riffle cross section has been provided. Full detailed cross sections and profile are not provided as full survey is not completed yet. Grading and proposed profile and cross sections will be provided in a future submission.

xiii. Include BMPs for working in wetlands on plans.

Response: The plans have been updated to include the BMPs for working in wetlands. A new plan sheet EN-01 has been added to the plan set.

xiv. Planting tables are needed for the upland and lowland planting areas proposed.

Response: Planting tables and a proposed seed mix have been included on the plans. Species and sizes are provided; however, quantities will be provided in a future submission.

xv. What kind of instream habitat features will be provided in the channel to manage smaller storm events?

Response: The report includes instream habitat features that are to be used in Section 9.5 Biology and Section 12 Restoration Design Discussion and Mitigation Work Plan. These features are not included on the plan view at this time, but general structure details are included on the plans. In-stream habitat feature locations will be added on the plans once topographic survey is completed by final design. Specifically, live fascines and live stakes, in-channel log sills, log vanes, and in-stream rock structures will be used to provide instream habitat.

xvi. Additional information is necessary to explain the following statement on page 51 of the design report – "Reducing the size of the 100-yr floodplain to prevent extreme flooding to the surrounding highly urbanized area." Provide greater details for this purpose and need.

Response: Clarification has been provided; the 100-year floodplain elevation will be lowered, resulting in the footprint of the 100-year floodplain being decreased. The reduced floodplain elevation should reduce the extent of flooding of adjacent areas that have a history of flooding events. In future submissions, a detailed map showing the reduction in the 100-year floodplain and a proposed HEC-RAS model detailing these reductions will be provided. Future submittals will coordinate with MDE and FEMA if necessary regarding these reductions.

5. Please address the following comments on impact plates:
   a. KH-3021 - MD 24 Interchange
      i. Plate 10: Wetland T shown, impacts listed, but not on table

      Response: Wetland T was not listed on the USACE Summary of Impacted Resources table because it is not USACE-jurisdictional. Impacts to Wetland T are included in the Wetland Impacts Table.

      ii. Plate 13: Wetland P shown, impacts listed, but not on table

      Response: Wetland P was not included on the USACE Summary of Impacted Resources table because it is not USACE-jurisdictional. Impacts to Wetland P are included in the Wetland Impacts Table.

      iii. Plate 22: WUS C-20 shown, impacts listed, but not on table. WUS 20C is shown on table, possibly mislabeled? Coordinates are where WUS C-20 is mapped and it carries over into the KH-3030 95 SB Noise Wall Plate No. 3, where it is labeled WUS 20C.

      Response: This is was mislabeled on the plate; it should be labelled WUS 20C, consistent with KH-3030's plates. The impact plate has been revised. No changes were made to the summary table.

   b. KH-30XX – Lilly Run Restoration
      i. Plate 7: Temporary PEM wetland impact number is distorted

      Response: Plate 7 has been revised.

   c. KH-3019 MD 152 Interchange / I-95 NB ETL Two Lane Extension/MD 152 Noise Wall
      i. Plate 11. The impact plates show impacts to WUS A-18; however, there are no impacts listed in the impact plate table or the impact summary tables. Please revise both plates and tables to include this impact.

      Response: Both the impact plate and impact summary table have been revised.

ii. Plate 20. The LOD has been reduced; however; impacts to Wetland UU should stay the same. Original impact plates and impact tables list 2,860 square feet of impact and the revised impacts list 2,835 square feet of impacts. Please update the tables and plates as needed.

Response: The number previously changed because the LOD decreased slightly; however, we agree that this wetland should be a total take, so the impact total was changed back to the previous amount. Both plate and impact summary table have been revised.

iii. Plate 25. See above comment. Original impact list 2,111 square feet and the revised impacts list 2,092 square feet of impacts.

Response: Since this comment was made, the design changed, resulting in substantial reductions in impacts to this wetland. The impact plate and summary table have been revised to reflect the new design.

iv. Plates 31 and 32: WET A-8 shown, but not listed on impact table

Response: Wet A-8 is not included on the USACE Summary of Impacted Resources table because it is not USACE-jurisdictional. Impacts to WET A-8 are included in the Wetland Impacts Table.

v. Plate 41. Please confirm that impacts to WETLAND H will not change hydrology to resources downstream (eg. Remaining portions of WETLAND H, WUS A-8, and WUS A-9).

Response: It is anticipated that the proposed impacts to Wetland H will not result in changes in hydrology to the downstream resources.

d. KH-3020 I-95 ETL NB Extension to Bynum Run NB Noise Wall on NB I-95 North of Abingdon Rd.

i. Plate 5. All of WET C-9 is being permanently impacted, please include all of the impacts to its wetland buffer and update the impact plate and impact tables.

Response: Plates 4 and 5 (which both show WET C-9's buffer) have been revised to show impacts to the entire wetland buffer. The impact summary table has also been revised accordingly.

ii. Plate 12. Impacts to WET G-5 have not changed from original submittal to the revised submittal; however, the original impact tables list 1,151 square feet of impacts and the revised impact tables list 1,132 square feet of impacts. Please clarify the reduction of impacts and or update the impact tables to accurately show the impacts to WET G-5.

Response: You are correct; the impacts have been changed back.

e. KH-3021 MD 24 Interchange / ETL Two-Lane Extension
    i. Plate 3. Please show the entirety of the stream channel or confirm that this stream is piped underground and update the impact plates.

    Response: The delineation of the stream was extended, and the impact summary table and Plate 3 have been updated.

f. KH-3023 MD 24/MD 924 Park & Ride
    i. Plate 1. The impact table lists WET F-3 is not MDE Regulated; however, the total is still being counted in total wetland buffer impacts in the summary table. Please update the table and remove this from the total wetland buffer impacts.

    Response: The impact plate and impact summary table have been corrected. WET F-3 is now shown without the 25-foot MDE wetland buffer on the impact plate, since the wetland is not MDE-regulated, and no buffer impacts are counted for the wetland on the plate or in the summary table.

g. Eccleston Mitigation Site
    i. Plate 6. Please clarify where WUS 13 originates from and confirm that there are no additional resources downstream of WUS 13.

    Response: WUS 13 daylights from a culvert located underneath the former railroad bed that is now used as BGE right-of-way which will be used for equipment access to the mitigation site. There are no additional resources downstream of WUS 13; this was confirmed during a field review of the wetland delineation with MDE and USACE regulators.

Should you have any further questions, please don't hesitate to contact me directly at 410-931-0808 or Bwolfe3@mdta.state.md.us.

Sincerely,

Brian Wolfe

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