

**WATER AND SCIENCE ADMINISTRATION
TIDAL WETLANDS DIVISION**

Wetland Report and Recommendation

State Wetlands Case No:

19-WL-1326

Applicant:	Maryland Dept of Natural Resources, Attn. Kelly Wright 580 Taylor Avenue, D-3 Annapolis, Maryland 21401 Lester.wright@maryland.gov (443) 510-4514	Agent:	Mike Wychulis A. Morton Thomas & Associates, Inc. 800 King Farm Blvd, 4th Floor Rockville Maryland 20850 mwychulis@amtengineering.com (301) 881-2545
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Date Application Received: November 22, 2019 Public Notice Required? Yes

Comment Period Closing Date: First - June 1, 2020
Second – September 15, 2022
November Hearing – December 2, 2022

Maryland Coordinates: 52376 x 536596

Book Map Coordinates: Worcester Co. ADC Map Num: 27 Ed: 8 Coord: 8 A

Location of Proposed Work: The proposed project is located off Corker's Creek in the Pocomoke State Park at 3461 Worcester County Highway in Snow Hill, Worcester County, Maryland.

Purpose of Proposed Work: Provide a public access trail, boardwalk and a prefabricated bridge to link a network of hiking trails over Corkers Creek.

Description of Authorized Work:

- 1. Construct a bridge a minimum of 5 feet above the mean high water line with 41.06 linear feet over open water and 7.71 linear feet over a forested tidal wetland over Corkers Creek;*
- 2. Construct a 6-foot wide by 132.4-foot long walkway over forested tidal wetlands with an approximate 20-foot long by 3-foot wide bump-out platform.*
- 3. The walkway and bridge will be constructed from 10-foot wide temporary mats on 16-foot wide support beans. The temporary impacts from matting will total 1401 square feet within tidal wetlands.*

Waterbody: Corkers Creek

Requires Water Quality Certification? No, the WQC has been issued for the Maryland State Programmatic General Permit.

Qualifies for Maryland State Programmatic General Permit? Yes, Category B and will be issued by the United States Army Corps of Engineers directly to the applicant.

Area of Vegetated Wetland Impacts Requiring Mitigation: 0 square feet

Area of Wetlands Created: 0 square feet

Was the Applicant's Original Project Modified? Yes, the project was originally proposed with a longer bridge at a higher elevation and with the bump out on the opposite side as well as the realignment of a sharp turn. The structure was proposed to be built from itself. The contractor contacted MDE to discuss construction of the structures from mats and revised plans were submitted to show the matting. These revised plans also had a gentler curve, a shorter and lower bridge and the bump-out was shifted to the opposite side.

Department Comment:

The Maryland Department of General Services (DGS) has applied to construct a new pedestrian trail and bridge at the Pocomoke River State Park – Shad Landing, located in Snow Hill, Maryland. The timber walkway will have a gravel trail transitioning into a timber walkway through nontidal and tidal wetlands to a bridge over Corkers Creek and continuing through tidal and nontidal wetlands back to uplands. The trail is located within the Critical Area on lands designated as Resource Conservation Area (RCA). The new trail system will connect existing walking trails already present in the park, as well as connecting Shad Landing State Park to the State Forest-Hudson and Tarr Tract area. This trail system was listed as a priority in the 2008 Land Unit Plan for this area. Currently visitors to Shad Landing who want to access the Hudson and Tarr Tract would have to walk on the shoulder of Hwy-113 or drive to the other side of Corkers Creek. Providing a connection to the two sides without using the road requires a crossing of the creek. This proposal, while providing scenic views and experiences of the interior of a cypress swamp, is close to the road and keeps the anticipated disturbance near the existing noise and activity of the road. The challenge is in constructing the raised timber walkway through a cypress swamp and installing the prefabricated bridge.

This application originally came in on November 22, 2019, and proposed to construct the pier from itself with little impact to the underlying wetlands. The application was reviewed and put on public notice and no comments were received. A Report and Recommendation was drafted, but before it was finalized, the contractor contacted MDE to explain that when coordinating with the helical pile manufacturer, the designers decided that the maximum weight capacity for the structure would not support the equipment that would be needed to install the piles. Due to this, they requested authorization to construct the pier from mats. The project nontidal impacts were reviewed and authorized under 19-NT-2160 and specified the walkway to be constructed from itself and it was determined that this authorization would have to be modified. The agent and contractor were advised that the proposed change could be considered a revision for the tidal wetland review since the tidal work had not been authorized. The revision/modification was received at MDE on May 12, 2022.

The revised proposal is to use a mini-excavator working on mats to install helical piles. Matting will be placed along the length of the walkway to the creek and the matting will be removed on the way back to uplands as the pier is constructed. The 10-foot wide mats are on 16-foot timbers. They are considered stable and can be stacked or supported with timbers. Geotextile fabric will be placed on the surface to minimize impacts to the soil and cypress knees. The revision also included a change in the location of a bump out, shortening and lowering of the bridge by a foot, and a realignment in the area of a curve in the walkway. The revisions were considered a major change, and a public notice would be required. During this public notice comment period, a request for an informational public hearing was received. The public hearing was held at the Worcester County Library – Snow Hill Branch in Snow Hill, Maryland on November 28, 2022. Concerns that were raised and the responses that were provided addressing them are listed below:

Concern 1 - Comments were made regarding the opportunity for public comment on the proposed trail/bridge prior to this application submission.

Response 1 - DNR has reviewed the original permit submittal. The adjacent property owners listed on the MDE Public Notice Billing Approval Form (dated 11/19/2019) were 'MD-SHA' and 'DNR Lands'. After further investigation using the Maryland MERLIN website, the two contiguous property owners adjacent to

the State Park, other than DNR lands, MD-SHA (Route 113) and Mr. Dennis Klingenberg at 3609 Worcester Highway, Snow Hill, MD. 21863. A notification letter was sent to Mr. Klingenberg on August 8, 2022.

Comment 2 - Commenters felt that the cost of the project was high and that there were better uses for the money.

Response 2 - This project is funded from the Maryland DNR Program Open Space, which is dedicated to improving access to public lands. These funds could not be used for other purposes. Developing trail connections parallel to the Pocomoke River generally between Snow Hill and Pocomoke City is a long-term vision of DNR and community leaders - to better connect people to their public lands. Developing a trail-specific crossing of Corkers Creek is a key step toward this goal. Regarding the specific location, there are physical (Rt-113) and regulatory (Wildlands designation) constraints that bound the project. The design process selected the proposed crossing, with its proximity to existing trail and campground connections, as the most cost-effective location.

Comment 3 - Several commentors stated that Pocomoke State Park is under-utilized with minimal use of the trails and questioned the need of this additional section of trail.

Response 3 - The Park served roughly 190,000 visitors in 2022, up 20% since the pandemic in 2020. Visitation to the State Forest is counted separately but is also a popular destination for outdoor recreation opportunities and events. Visitors looking to participate in hiking, biking, hunting and nature viewing frequent both areas. The Park consistently ranks in the top 5 in camping revenue statewide and is one of very few parks statewide to offer year-round camping, especially on the Eastern Shore. DNR anticipates a continued increase in visitation. The Park manages backcountry campsites in the State Forest, which would be a better hiking and backcountry experience with the addition of this trail bridge. It provides the Park an opportunity to better interpret and teach local youth about responsible stewardship. The Park's annual Meaningful Watershed Education Experiences program partnership with Worcester County Schools brings in every 5th grader in the county to visit the Park and learn. This was nearly 1,000 students last year.

Comment 4 - Comments were made about the location of the walkway and bridge. It was suggested that the project could be moved to be adjacent to Route 113 and still accomplish the stated purpose. Additionally, a question was raised about the need to connect the five access points for the trail system through the swamp.

Response 4 - State Parks seek to provide natural experiences and shifting the trail close to MD-113 does not meet the goals of visitors to Pocomoke. Creating opportunities for the public to experience unique landscapes, such as a Bald Cypress swamp, is integral to the mission of State Parks. It is not practical to appreciate the importance of these resources if they are not available. The proposed trail compliments the other cypress swamp experience at Shad Landing (Trail of Change) as it is designed using Accessible Standards to allow a wider range of park visitors to participate.

Comment 5 - Concerns were expressed about possible fuel leaks into the river during construction.

Response 5 - The Maryland Department of General Services General Conditions of this project, which are part of the contracted construction documents, cite numerous laws, regulations, and contract principles which would compel a Contractor to clean up/repair any damage that they caused (all while indemnifying the State).

Comment 6 - There were concerns that the screw piles would not be installed in soils that were stable enough to support the structures.

Response 6 - Soil borings were performed, and a geotechnical report was prepared by a geotechnical engineer licensed in the State of Maryland. That report was provided to the piling manufacturer, whose engineers, also licensed in the State Maryland, reviewed the report and provided their signed and sealed calculations of recommended piling sizes.

Comment 7 - Concerns were shared about the change in design that will allow this pedestrian trail to be used by ATV/UTVs.

Response 7 - *Vehicular use of the bridge and boardwalk will be limited to park personnel only in emergency situations. See Special Condition J.*

Comment 8- While matting is generally considered a temporary impact, there are concerns that the matting will cause long term impacts to the unconsolidated wetlands areas. Concerns were raised about the use of mats in a swamp with possible unknown underground voids and penetration of the root mat to unstable soils in which construction equipment may become lodged.

Response 8 - *There is no intention of cutting cypress knees or adding fill to facilitate the installation of the mats. Wet or otherwise sensitive areas will be spanned or bridged with horizontal crossbeams to a maximum of 16-ft spans as shown in the USACE BMP documentation "Typical Stream Crossing With Swamp Mats" diagram. Field investigations with the construction team indicate this approach will be feasible. The contractor will exercise extreme caution in the installation of the mats and their use. If mats fail or sink, additional mats can be placed above in parallel or perpendicular arrangements as needed to achieve the necessary stability. If a given area appears dangerous or unstable the contractor will stop work to reassess. See Special Condition H which was added to address this concern.*

Comment 9 - A charter boat captain and the president of a bass fishing organization commented that many fishermen use the creek up to the highway and that the area is the site of several fishing tournaments when multiple boats could be in the creek at the same time. There was concern that the bridge, shown at a proposed 4-foot elevation above the mean high water line (mhw), will impact the ability for these boats to navigate.

Response 9 - *In consultation with Parks, DNR, DGS and the bridge manufacturer, a decision was made to lower the bridge by 1-ft to ease with the structural engineering allowing to maintain the Parks'/DNR desire to have a 42" railing while not adding structural supports mid-span. The 1-foot drop of the bottom of the bridge superstructure still remains above the 100-year floodplain elevation. The proposed trail bridge is approximately 90 yards downstream of the MD-113 bridge which has a clearance of 2-foot five-inches at mean high tide (four-foot, three inches at mean low tide). The one-foot reduction in the proposed pedestrian bridge height above MHWL was proposed as a means to minimize the bridge width and to maintain the required railing height for the pre-fabricated bridge. Structurally speaking, to have the originally proposed clearance over MHWL, the bridge would have to be widened, resulting in a heavier bridge and requiring more/larger pilings on either end. This would require larger equipment to install the piles, resulting in more disturbance to the surroundings. However, during further review of the project in an effort to determine how many hours of a day navigation would be limited, MDE questioned the tidal range that was shown on the plans. The agent indicated that that the mean high water line shown at 3 feet on the plans was from work done to evaluate coastal resiliency and based on the tidal elevation projected for 2050. The current mean high water elevation is actually 1.8 feet referenced to mean low water. Once the mean high water line was revised to show the current elevation, the plans show that there will be a 5-foot, 2-inch clearance between the bridge and mean high water elevation. This allows for the clearance that was requested by the boaters who use the waterway. This project has been reviewed by the U.S. Coast Guard (USCG) in regards to the waterway, (consideration of) tidal waters, vessel traffic and commerce. They have stated they are not concerned with this project relating to navigational clearances.*

This information will be shared with the commentors, and while some of the concerns were addressed, there are other issues such as cost and location that remain concerns.

As required by § 5-204 (b) of the Environment Article, the Department drafted and issued a public notice by posting the public notice on its WEB site from May 1, 2020 to June 1, 2020 and publishing the public notice for the proposed project in Worcester County Times on May 7, 2020. In addition, the public notice was provided to the State Highway Administration District 1 office. Individual property owners were not notified since the immediately adjacent areas are owned by the state. The Department received no requests for a public informational hearing in response to this public notice. When the revision/modification was submitted, Nontidal Wetlands and Tidal Wetlands placed the project on public notice on its WEB site from August 15 through September 15, 2022 and was published in the Worcester County Times. The adjacent

property owners were determined according to the Nontidal Wetlands Division requirements and individual property owners adjacent to the project, but not necessarily riparian property owners were notified. These interested persons are included on Attachment A. During the second public notice, a request was received for a public hearing. This hearing was placed on MDE's website and advertised in the Worcester County Times on November 10, 2022. The public hearing was held on November 28, 2022 at the Worcester County Library - Snow Hill Branch.

The Maryland Department of Natural Resources (DNR) reviewed the proposed project and modification and determined that they had no comment.

The Maryland Historical Trust reviewed that proposed project and determined that there are no historic properties affected by this undertaking.

The evaluation of this project has considered ecological, economic, recreational, developmental, and aesthetic considerations appropriate for this proposal as well as other requirements set forth in the Code of Maryland Regulations. To ensure that impacts to resources are avoided and minimized to the maximum extent possible and to ensure that all work is performed in accordance with critical area and local regulations, the Department has recommended several special conditions. Provided all general and special conditions are adhered to, the work proposed will not cause significant deleterious impacts to marsh vegetation, submerged aquatic vegetation, finfish, shellfish, or navigation.

Project Justification: In consideration of the site characteristics and the nature of the proposed work, the Department concludes that the application represents a reasonable exercise of riparian rights.

SPECIAL CONDITIONS:

- A. The Maryland Department of the Environment has determined that the proposed activities comply with and will be conducted in a manner consistent with the State's Coastal Zone Management Program, as required by Section 307 of the Federal Coastal Zone Management Act of 1972, as amended.
- B. The Licensee shall comply with all Critical Area requirements and obtain all necessary authorizations from local jurisdiction. This License does not constitute authorization for disturbance in the 100-foot Critical Area Buffer. "Disturbance" in the Buffer means clearing, grading, construction activities, or removal of any size of tree or vegetation. Any anticipated Buffer disturbance requires prior written approval, before commencement of land disturbing activity, from local jurisdiction in the form of a Buffer Management Plan.
- C. If the authorized work is not performed by the property owner, all work performed under this Tidal Wetlands License shall be conducted by a marine contractor licensed by the Marine Contractors Licensing Board (MCLB) in accordance with Title 17 of the Environment Article of Annotated Code of Maryland. A list of licensed marine contractors may be obtained by contacting the MCLB at 410-537-3249, by e-mail at MDE.MCLB@maryland.gov or by accessing the Maryland Department of the Environment, Environmental Boards webpage.
- D. The Licensee shall not stockpile any material in State or private tidal wetlands.
- E. The Licensee shall construct the pier, platform, and associated structures from the uplands, open water, or the structure itself wherever possible. Marsh mats shall be used if any equipment or materials are placed in vegetated wetlands.

- F. The Licensee shall place geotextile fabric as a base below the matting. No woodchips or sand fill shall be placed within the tidal wetlands.
- G. The Licensee shall restore and revegetate all disturbed wetlands to original contours upon completion of construction.
- H. The Licensee shall submit photographs on an annual basis for the first three growing seasons after the bridge construction to the Tidal Wetlands Division, Water and Science Administration in order to document whether the trail is free of Phragmites and the cypress knees have recovered from the matting. Photographs shall be taken from at least two directions, as necessary to fully depict the trail. If Phragmites is identified in the area, the Licensee shall submit a detailed marsh maintenance plan and a Phragmites Control plan to be approved by the Water and Science Administration, Tidal Wetlands Division and eradicate the Phragmites. If it is determined that the matting has damaged the cypress trees, further monitoring and mitigation may be required.
- I. The Licensee shall ensure that a spill plan for inadvertent releases from mechanical equipment is in place and followed.
- J. The Licensee shall ensure that the trail is maintained as a pedestrian trail. Utility Vehicles and All-Terrain Vehicles shall only be permitted in cases of emergency.

DEPARTMENT OF THE ENVIRONMENT APPROVAL:

Mary Phipps-Dickerson
 Mary Phipps-Dickerson, Natural Resource Planner
 Tidal Wetlands Division

January 12, 2024
 DATE

Tammy Roberson
 Tammy Roberson, Division Chief
 Tidal Wetlands Division

1/13/2024
 DATE

D. Lee Curry
 D. Lee Curry, Director
 Water and Science Administration

1/15/2024
 DATE

WETLANDS ADMINISTRATION CONCURRENCE:

William Morgante
 William Morgante, Wetlands Administrator
 Board of Public Works

DATE

ATTACHMENT A

Corkers Creek Interested Persons

			Phone	for/against
Opposed				
Dennis Klingenberg	3609 Worcester Hwy. Snow Hill, MD 21863	dksnowhill@aol.com	H 410-632-1687 C 410-430-8843	against
Pat Barbely	8605 Newark Rd. Newark, MD 21841	patienceceg1957@gmail.com		against
Capt. Bruce Wooten	6661 Snow Hill Rd Snow Hill, MD 21863	captbrucew@gmail.com	C 410-251-9677	against
Joseph Ingolia	204 South Church Street Snow Hill, MD 21863	shoreflash@gmail.com	C 410-340-7147	against
Jim E. Seltz and Rhonda Snyder		jkseit3@yahoo.com		against
Scott Sewell	Director-MD Bass Nation	nitro1707@verizon.net	443-909-9786	against
Virgil Shockley	Snow Hill, MD 21863	virgilshockley@aol.com		against
John Abbott	Pocomoke City, MD	calebsdad5@aol.com		against
LuAnn Johnson	417 S. Church St. Snow Hill, MD 21863	lujohnson900@gmail.com		for placing walking/bridge along Rt 113
In support				
Christopher Sufczynski		youthpastorchris@yahoo.com		for
Jason Swanson		swansonjasontodd@gmail.com	213-810-0365	for
Mikaela Boley		mikboley@gmail.com		for
Cathy Knowlton	2621 Longwood Drive Wilmington, DE 19810	marineknowlton@gmail.com		for
Maria F Miller	Tyaskin, MD	maja0518@yahoo.com	444-754-0079	for
Mike, Jen and Luna O'Brien	Hallwood, VA	sportyredhead01@yahoo.com		for
Leah Zabarenko		lzabarenko@msn.com		for
Colette Outten	1744 Buck Harbor Rd	cnodpt@gmail.com	443-783-6102	for
Brian Outten		wrdnut@yahoo.com		for
Trent Swanson		twents@gmail.com	443-944-1240	for
Penny Williams		pwmoose@gmail.com		for
Neutral - No position taken				
Deborah Dickerson	30237 Southhampton Bridge Rd Salisbury, MD 21804	delydi48@gmail.com		
MDOT SHA - District 1	660 West Rd. Salisbury, MD 21801			
Officials - No position taken				
Delegate Charles Otto	Lowe House Office Building, Room 321 6 Bladen St. Annapolis, MD 21401	charles.otto@house.state.md.us		
Senator Mary Beth Carozza	James Senate Office Building, Room 314 11 Bladen St. Annapolis, MD 21401	mary.beth.carozza@senate.state.md.us		