

Mill Swamp Mitigation Bank Public Informational Hearing (2023-04-24 19:00 GMT-4) - Transcript

Attendees

+1 301-***-**95, Alex Sicard -MDE-, Amanda Sigillito -MDE-, Brian England, David Mosher, David Walbeck -MDE-, Heather Nelson -MDE-, Jeremy Koser, Jeremy Koser's Presentation, Jim Morris, John M., Joshua Tiralla -MDE-, Kelly Neff -MDE-, Ken Bawer, Lorretta Hopkins, Marc Imlay, Mega Gatewood, Melina Frame, Mike Cunningham, Nick Ozburn (USACE), Outdoor Wild Wilderness, Sharon Boies, William Seiger -MDE-, William Seiger -MDE-'s Presentation

Transcript

This editable transcript was computer generated and might contain errors. People can also change the text after it was created.

Amanda Sigillito -MDE-: All right, it's seven o'clock and we're going to go ahead and start the hearing now. Good evening. I would like to welcome everyone to the Maryland Department of the Environment's public information hearing for the proposed Mill. Swamp Mitigation Bank application. Number 22-nt - 0001/202261353. My name is Amanda Sigillito and I am Chief of the Nontidal Wetlands Division at the Maryland Department of the Environment (the Department). I will be the presiding official for this evening's public informational hearing. Also, in attendance with me from the Department are: Kelly Neff, Mitigation and Technical Assistance Section Chief, Nontidal Wetlands Division, Josh Tiralla, Natural Resource Planner, of the Mitigation and Technical Assistance Section,

Amanda Sigillito -MDE-: Nontidal, Wetlands Division and Bill Seiger, Chief of the Waterway Construction Division. I would like to thank everyone for taking the time to participate in the public comment process. It is the responsibility of my office to evaluate applications that propose impacts to nontidal wetlands and waterways. The Department's authority is found in Subtitles 5 and 9 of the Environment Article., Each application received through our regulatory program has specific and unique issues and impacts that must be considered in relationship to weighing the potential benefits and detriments of the project. The Department is neither a proponent nor opponent of any project.

Amanda Sigillito -MDE-: The logistics for this evening's hearing are as follows. I will make a few opening remarks about the purpose of the public information hearing and briefly list the proposed impacts. I will then call on JMT, Inc., for the applicant's statement regarding their project. After these required presentations, the Department will facilitate public statements by first calling on any elected officials or their representatives to make a statement. I will then call on those of you who indicate that you wish to speak. It is not necessary to read a statement to make it part of the official record. Written comments will also be accepted and received the same consideration as any oral statement. In fact, for accuracy, If you have a letter to read into the record, I suggest you provide us with a copy of the letter via email or regular mail.

Amanda Sigillito -MDE-: We do not permit cross-examination of the speakers during their presentation's, but you may post questions as part of your statement for our consideration during our evaluation. Please

note that we will not be responding to questions or comments posed this evening. This venue is for the Department to hear and record your public comments. The public information hearing is being recorded and the recording will be used to facilitate the final decision on this application. At this time, I would like to acknowledge any elected officials who may be present with us this evening. If you are an elected official or representing an elected official, please raise your virtual hand now to be recognized.

Amanda Sigillito -MDE-: All right, thank you. I don't see any hands raised at present. The Department is conducting this evening's public informational hearing pursuant to Subsection 5-204 of the Environment Article and Code of Maryland Regulations 26.23.02.02 and 26.17.04.13. The purpose of this public informational hearing is for the applicant to present an analysis of impacts that may be associated with the proposed activity. I would like to emphasize that the purpose of this public informational hearing is to consider the application pending before the Department. There may be a number of additional concerns related to issues that are beyond the scope of this particular hearing, I would like to have this hearing remain focused on the proposed Mill Swamp Mitigation Bank

Amanda Sigillito -MDE-: The proposed Mill Swamp Mitigation Bank is an approximately 49 acre multi-user stream and nontidal wetland mitigation bank that would include restoration enhancement and preservation of aquatic resources. This mitigation bank would provide compensatory mitigation for future stream and nontidal wetland impacts authorized by the Maryland Department of the Environment in the USGS, Eight Digit, Hydrologic Unit Code or Huc of Middle Potomac-Anacostia-Occoquan Huc and Lower Potomac Huc.

Amanda Sigillito -MDE-: This proposed project includes grading and planting, which would result in approximately 9.40 acres of wetland restoration. 24.98 acres of wetland enhancement. 7,490 linear feet of stream restoration and additional riparian buffer preservation or enhancement. The project will temporarily impact approximately 120,713 square feet of emergent nontidal, 55,266 square feet of scrub-shrub nontidal wetland, 101,281 square feet of forested nontidal wetland. 245,445 square feet of 25 foot nontidal wetland buffer, 1,697 linear feet of intermittent stream,

00:05:00

Amanda Sigillito -MDE-: 4,313 linear feet of perennial stream and 545,430 square feet of the 100-year nontidal floodplain. The project is proposed along Mill Swamp mainstem and two unnamed tributaries within the middle title Potomac River watershed. The project is located on multiple parcels off of Marshall Hall Road, Fenwick Road and Bird Wing Place in Bryan's Road, Charles County Maryland between Barrys Hill Road to the north and Ward Place to the south. I will now ask the applicant to provide a brief presentation of their proposed project. If you could begin your presentation by giving us your name, please.

Jeremy Koser: Yes, good evening. This is Jeremy Koser with JMT and I am the project manager for the Mill Swamp, Mitigation Bank I will start by sharing my screen.

Jeremy Koser: Let me know when someone can see this.

Amanda Sigillito -MDE-: I can see it.

Jeremy Koser: Okay, very good. So I will start by providing some background and our approach to this project and then go through some of the exhibits, describing those in greater detail through mapping and other exhibits. The Mill Swamp Mitigation Bank is proposed by Mill Swamp Wetland and Stream

Mitigation, LLC and its service provider JMT, and is located in Bryan's Road, Charles County on multiple private properties. The intent is to develop commercially available mitigation banking credits for streaming wetland impacts in compliance with all applicable state, local and federal standards. Crediting for TMDL Sediment Reduction or Force Conservation. Act impacts are not proposed.

Jeremy Koser: JMT recognizes that this project occurs in forested resources and may have temporary impacts to resources. Overall, It should be noted that this project is the result of years of planting and prioritization to maximize the code benefits of the project, including improving floodplain storage above Marshall Hall Road, which has a known history of flooding causing hazard and inconvenience for residents, and the presentation and expansion of a high quality emergent wetland community. We also proposed to preserve large tracts of stream buffer, including existing, sensitive force, and slopes preserving these areas and perpetuity from timber management activities and promoting the establishment of additional forest, but the long-term goal of management into old growth forest communities. We propose to minimize force disturbance and restore the high-quality beaver meadow, which breached approximately three years ago,

Jeremy Koser: Engineered beaver, dam analog structures of various types are proposed in existing gaps in the forest to preserve resources and create forested wetlands under a fully mature canopy. The contractor who will build the project will be monitored by environmental specialists to ensure tree protection areas are enforced and such safeguards can be easily written into contracts and permit conditions. Additionally, the contractor will be selected from a pool of qualified specialist with demonstrated, experience working in sensitive locations and not on a low bid basis.

Jeremy Koser: The proposed project prioritizes tributary health and restoration of wetland hydrology and will include long-term monitoring maintenance and adaptive management to ensure goals are achieved. The project driver is not the prioritization of sediment reduction bay health issues though. Those are certainly included co-benefits. We plan to implement techniques appropriate for the history and geology of the Maryland Coastal Plain, which differs significantly from typical TM deal projects. In coordination with the Maryland Department of Natural Resources. JMT, proposes develop new performance in planting standards to ensure that forested canopy preservation is a key component of the design as well as advanced techniques to ensure that open areas and gaps and canopy are restored to a forested condition. This includes presentation and expanded force. Interior, dwelling species, habitats

00:10:00

Jeremy Koser: all of these standards are to be enforced through project monitoring and conditions as granted by the Interagency Review team, JNT's team of designers and project partners have extensive experience and demonstrated success in Maryland. As well as nationally in improving tributary health, on our projects. We recognize that working in locations with good connection to existing high value, environmental resources, yields measurable project success, and thus is committed to working to preserve these features through the most sustainable methods possible. In this way, these resources can be expanded locally into a larger contiguous and more biologically significant area. Our approach is the first assess the adjacent upland, areas for opportunities to minimize runoff, and maximize water quality benefit. Then address the conditions that have led to direct degradation of the existing channel through re-saturation of the floodplain. Our goal is to restore the carbon sequestration, capacity of the historically impacted floodplain wetland complex, restoration of wetlands, as well as the improvement of floodplain storage capacity, is an important goal of resilient practices, addressing climate change, which is a regional and global importance. JMT is an advocate for policies and practices which sustainably and

responsibly restore ecosystem services in the state of Maryland and welcomes. The constructive participation of agencies and stakeholders to develop policy and practices which put the resource first and require that projects meet the higher mitigation standard for their stream and wetland impacts regardless of project intent. JMT recognizes that while mitigation banking streamlines, the mitigation process should be used only when impacts are truly unavoidable and when that need can be well justified.

Jeremy Koser: Mitigation banking provides the most enforceable and highest quality available alternative for restoring ecological function and vastly outperform small. And often, neglected permittee responsible mitigation sites. JMT reminds all those present at this meeting. That's streaming. Wetland impacts should not be taken lightly and that a thorough thoughtful. And peer-reviewed alternative analysis should be conducted for every permit application within the thresholds for waterways impact review. So, I will now move to the presentation piece. What you see on the main screen is a pretty typical condition stream condition of this project.

Jeremy Koser: What I wanted to point out in these maps and this is the most upstream project site is just to give you a little idea of what the coloration means. So anywhere you see green on this map is considered a wetland enhancement activity and we're proposing that to be mainly hydrology increasing hydrology. and also, Planting replanting trees where there may be gaps in the canopy anywhere in blue is a restored wetland or a created wetland so a wetland that previously existed but was impacted or is newly created.

Jeremy Koser: And then anything you see in the yellow is the buffer associated. With all those improvements, one thing I do want to point out is, it's, it's hard to see, but there is a line, a black line on this plan called the LOD the limit of disturbance. And as you can tell, we're proposing at this site a more surgical approach to come in in breaks, in the canopy to actually do our restoration techniques. So, similarly, for this map, what's new on this map is the purple shaded area. That is strictly forest preservation. So nothing other than just preserving the existing force that exists.

Jeremy Koser: This is the tributary that ties in. Below harsh Marshall Hall, Road up to the main stem of the Mill Swamp. Channel. And one other item, I wanted to point out was We do extensive pre and post construction data collection efforts with this project. And I just wanted to list some of the major ones. So a full topographic survey and utility investigation will be provided, we have already done a wetland and waterway delineation for the project. Forest and delineation and specimen, tree surveys are also forthcoming. Stream surveys, including functional assessments will be provided as well as habitat evaluations. We have already started collecting stream, temperature data for this stream.

Jeremy Koser: Fish and macroinvertebrate sampling will be provided pre-construction as well as post-construction throughout the monitoring period. And there will be coordination with the Maryland, Historic Trust and the US Fish and Wildlife and Maryland. DNR related to rare, threatened and endangered species.

00:15:00

Amanda Sigillito -MDE-: Thank you, Mr. Koser. All right. We're going to now move to accepting public comments on the project. There have been a few people who have joined since we first started and I'd like to make sure that we haven't had any elected officials joined us.

Amanda Sigillito -MDE-: All right.

Amanda Sigillito -MDE-: All right. Well then what I will do is I will ask you if you'd like to make a statement tonight. And remember you don't have to, you can always send in statements after the hearing but if you'd like to raise your virtual hand and leave it raised until we call on you, when we call your name, we will unmute you and you may begin to speak. Please start by clearly stating your name and any interest which you may be representing speakers, representing a group or organization or allotted five minutes to make their remarks and individuals are allotted three minutes for their remarks.

Amanda Sigillito -MDE-: All right, Mr. Bauer, I'm going to go ahead and

Amanda Sigillito -MDE-: Ask you to unmute yourself.

Ken Bawer: Yeah, can you hear me?

Amanda Sigillito -MDE-: I can hear you just fine.

Ken Bawer: Okay. Yeah,...

Amanda Sigillito -MDE-: You can go ahead. You may start

Ken Bawer: Thank you. So again for the record, my name is Kenneth Bawer. Speaking for myself tonight, A permit for this proposed mitigation bank should be denied since it is totally without merit for the following reasons. First of all, so-called mitigation is a sham which adds insult to injury since two different sites are damaged, both the impact site and the mitigation site. Unfortunately the result is never a zero-sum game in reality. The result is a net decrease in forest, acreage wildlife, habitat and functioning wetlands, including lock ecosystem services, such as carbon sequestration. Mitigation is a legal but ethically, an environmentally corrupt, money-making scheme, The science which I'll reference in my written. Testimony shows that mitigation projects do not repair environmental damage on the mitigation site and thus cannot possibly balance. The environmental destruction at the developer's, construction impact site,

Ken Bawer: As Laban Martin say in their Streams of Revenue. Book quote, the vast majority of permits have been granted as the agencies have yielded to the political cost of limiting development rather than deny permits altogether to protect the nation's freshwater. Ecosystems the agencies arrived at a workaround known as mitigation. It turned out to be far more politically palatable. Palatable to let developers offset their projects. Impacts on a stream restoring a comparable stream elsewhere than to ask them to rework the project to avoid or reduce its impacts altogether. This is a damning unquote. This is a damning indictment of the permitting process. We are currently engaged in details of why a permit for this proposed mitigation bank should be denied. Clear, the following reasons, one the need statement. Falsely claims that. The purpose of this project is to rectify past environmental damage to the baseline site. Conditions do not support the need for stream and wetland restoration. Three, The science does not support through the requirement that mitigation projects provide biological uplift

Ken Bawer: For the permit requesting team is not qualified based on past performance and similar projects such as the Font Hill. Tributary Stream, Restoration on Howard County, which resulted in clear cutting the existing riparian forest. Five, The prospectus has no proposed expectation of biological uplift. Resulting from the project, six. This project only addresses the symptoms without addressing the root, cause of a stream and what land degradation. Seven. There are numerous false or unsubstantiated claims in the presentation in the perspectives.

Amanda Sigillito -MDE-: All right. Thank you very much. Sharon boys and I apologize if I've mispronounced your name, if you'd like to go ahead and unmute yourself, please.

Sharon Boies: Yes. Hello! No. You pronounce my name. Perfectly. Thank you. Yes.

Amanda Sigillito -MDE-: Oh, good. Are you representing yourself tonight or a group or organization? All...

Sharon Boies: I'm representing myself tonight. Thank you. And your good evening,...

Amanda Sigillito -MDE-: Please start them.

Sharon Boies: thank you for this opportunity. I'm opposed to this project calling them stream restoration is very misleading to an unknowing resident. It's like calling clear Cunningham Forest the forest restoration, but nothing could be further from the truth. What restorations begin with the bulldozer followed up by excavators? That's called a demolition and what is happening in order to produce obligatory pollution, and mitigation credit

Sharon Boies: It to private contractors to allow contingent development of environmentally sensitive areas. I have told residents in the air report this as habitat for osprey and bald eagles. How will warmer murky deoxygenated water improve the water quality in the stream and watershed and how will this impact the current population of speech? Fish and other aquatic species in Charles County. Geology is compose. Mainly of sandstone silt clay gravel in courts. One wouldn't you expect said in the streams, the flooding problem of Marshall Road. It's repaired immediately by capturing the runoff before it reaches the road too often. Now we've seen these projects turnaries and streams into rocklined open storm channels void of their native flora and fauna with little hope of biological recovery or uplift. That never addresses the root cause of the erosion, the unmitigated stone, stormwater, runoff, what outdoor stream measures have been proposed or discussed with the community or implemented to adjust.

00:20:00

Sharon Boies: Been runoff is an alternative to this project. Have any private property owners? Already been offered money to put their land in a conservation easement and are they aware that some medication bank credits can sell for as much as 300k an acre and there is a Gaussian rule in place. Are they aware of actually becomes of their land and the loss of their rights? How many board feet of lumber? Does a contractor expect to remove from the area and who will place a value on the trees removed? And where will the profit and the final disposition be distributed to pure for taxes, etc. Same goes for the top soil, a crucial living organism. What is the total calculated? Carbon footprint at this project in the carbon spectration and production of crucial oxygen. For the fossil fuels Burn transporting, the materials to and from the project site who will pay for any damage roads or bridges from the heavy construction machinery driving on them. Specifically, what flora and fauna species? We lost forever. Which species? Can you guarantee will return with 100%?

Sharon Boies: Certainty and which species needs will be gained, what invasive species expect to gain and what method will use to control them. How many acres of trees left on the edge of the project site are expected to die, who will pay for the true removal replacement of any trees that are private property. Even if it's years later from the new conditions, the public notice posting anywhere in town, like the post office, or grocery store these projects impact the entire community. We must preserve and protect native streams and ecosystems over mitigation credits. And for you to deny this permit, and educate the

community on alternatives to mitigating open, stormwater runoff While protecting this crucial. Habitat, thank you very much.

Amanda Sigillito -MDE-: Thank you, Miss Boiss. David Mosher, you've indicated that you would like to make a comment. Would you like to go ahead and unmute yourself please? Okay, I can hear you.

David Mosher: Yes, thank you. Thank you.

Amanda Sigillito -MDE-: Just fine. Are you representing yourself or an organization tonight?

David Mosher: David Mosher for the record representing myself.

Amanda Sigillito -MDE-: All right, go ahead.

David Mosher: And I have a question, but it is in the nature of a comment. And I'm concerned about this project because this site has been identified as a targeted environmental area that has ecological significance. As earlier speakers have said the Department of Natural Resources has evaluated sites across the state. In fact, all parcels across the state covering all the land area and through their green print mapping program identified. Those sites that are targeted for being conserved and preserved in the program Open Space or the Maryland, Environmental Trust, or the Rural Legacy Program. And this site has been identified as such because of their assessment of it, it has very highly in five out of the eight areas that they look at. They look at

David Mosher: At such areas as habitat connectivity where it was rated 5 out of 5. So the habitat connectivity looks at is it connected to other areas of important habitat for wildlife and native species? This site is a particularly important corridor that can be a particularly important corridor between Piscataway State Park directly to the north and Chapman State Park directly to the south. So wildlife needs this kind of a corridor to move between these large preserved areas to continue to survive. Well, it was also rated very highly four out of five on rare species and wildlife habitat that it contains already. It was rated highly in force important for water quality protection. Future. Wetland habitat. Proximity to protected lands, very similar to the other rating about its connectivity to habitat.

00:25:00

David Mosher: And one area that it was rated a little lower on is coastal community resiliency. So it doesn't seem as though from the explanation of this factor. That this site is particularly important for resiliency against rising sea levels and flood conditions that it's not one that they looked at is particularly with potential in that area. So we're looking at a site here. That is rural. That is in need of preservation and conservation, not quote unquote, restoration as others have spoken about. So, for this reason, I think this is not a good site for mitigation banks. And I opposed this application

David Mosher: Thank you.

Amanda Sigillito -MDE-: Thank you Mr. Mosher All right, I do not see any other hands rays, but I'll Make one more offer before we move forward with. Closing. The hearing, There are two more hands, so millennia frame. If you would like to unmute yourself. Please.

Melina Frame: Hi, good evening. I'm I representing myself.

Amanda Sigillito -MDE-: Hi. Good evening. Are you representing yourself or okay?

Melina Frame: Yep, as a student county and I, I have a big concern here, that's not. Yet been mentioned by the presenter from GMT or from the Mde. And that is you guys, The Mill Swamp area is only two miles away from Piscataway Park. The Skyway Park was originally formed by Alice Ferguson who bought up that area to preserve it as close as possible to what it may have looked like in the colonial days. So people have a good view about Vernon and that's a crucial point for American history, American history as the colonialist era but it goes way way back further than that archaeologists have found that the mayo and village that was there of the Piscataway was continuously inhabited from 2000, bc up until 1960.

Melina Frame: Archaeological evidence believes that it may have begun. They have ceramic proof of this as far back as 3,000 bc. What dig sites have already been found in that area and just because of Piscataway Park has a boundary that is two miles away from Mill Swamp. And this proposed mitigation site does not mean that the original volume village was not covering the Milk swamp area. They found so far for burial sites, four burial sites, over a thousand indigenous. Piscataway people's ancestors have been removed. Chief Turkey. The Conway and Piscataway tribe had to actually go through a congressional elect and have new legislation proposed for him to be buried there, because it meant so much to him to be buried in the places. Ancestors had lived.

Melina Frame: And created villages and trading systems and agricultural zones across the Potomac. And I haven't heard a single mention of the archaeological significance, that this project would respect, look at or even examine. If we want to go over to just the species that are found there, I had the pleasure of visiting it myself a few days ago when I saw the meadowlands, the forests and the wetlands and I was very impressed by just how stable and the metal areas. The banks wore, the riparian buffer was completely filled with dated bluegrass. The root strictly goes down five or six feet. And it seems extremely stable to me, but just to give an idea of a few species found there. For butterflies, we've got eastern tiger, swallowtail, zebra, swallowtail eastern tail, blue monarch. The Red spotted Admiral for birds. We have great offspring.

Melina Frame: Blue, Great Heron, the Bald Eagle, the wide eye of the nickel, the Eastern Bluebird, the eastern Savannah Owl, the red-tailed, hawk for mammals, we have the rare North American River otter, the Red Fox, the coyote which is, which was reintroduced in 1960s, and I believe in, in Howard County, so we're trying to get a population here and the Eastern chipmunk. The Star-nose Mall for Turtles, a spotted turtle, the box turtle,...

Amanda Sigillito -MDE-: Ms. Frame.

Melina Frame: the snapping turtle.

Amanda Sigillito -MDE-: That's three minutes. If you could wrap up your comments,...

Melina Frame: Yeah. Well,...

Amanda Sigillito -MDE-: please. Thank you.

Melina Frame: Thank you for allowing that. And finally, going over to the amphibians, we have some protected, salamander species. I appreciate the time in the ability to speak. Thank you.

Amanda Sigillito -MDE-: Thank you, and I'll just remind everyone that you can email in comments after the hearing as well. Sure. Thank you.

Melina Frame: Thanks.

Amanda Sigillito -MDE-: All right, I don't see any other hands raise, but I'll make one final call. Does anybody else would like to make a comment?

Amanda Sigillito -MDE-: all right, well then I will go ahead and move to Closing out the hearing bill if you can put up the slide that has the information so that people can see where to send their comments. Either via email. Or mail them in. Thanks. Thanks very much.

00:30:00

Amanda Sigillito -MDE-: So the hearing record will remain open until 5 pm on Monday, May 8 2023, The public comments received during the public comment period will become part of the project file and will be considered by the department. When rendering a decision on application. Number 22-n-t-0001 backslash twenty twenty two six one, three five, three. And again you may email in your comments to Mr. Joshua Terrella or you can mail them to him. On behalf of the Maryland Department of the Environment, your interest in this project and your attendance at this evening's hearing is greatly appreciated, the hearing is now adjourned. Thank you very much.

Meeting ended after 00:31:25 🙌