



Maryland
Department of
the Environment

Wes Moore, Governor
Aruna Miller, Lt. Governor

Serena McIlwain, Secretary
Suzanne E. Dorsey, Deputy Secretary

January 18, 2024

Baltimore-Washington Rapid Rail
6 South Gay Street
Baltimore, MD 21202
Attn. Mr. Neb Sertsu

Via email to: NSertsu@bwrapidrail.com

Re: Withdrawal of Water Quality Certification Request Number 23-WQC-0007 (Tracking Number 202061983, US Army Corps of Engineers Application CENAB-OPR-MN NAB-2016-01622)

Dear Mr. Sertsu:

On February 7, 2023, the Maryland Department of the Environment (Department) received a request for a Clean Water Act, Section 401 Water Quality Certification (Certification or WQC) from Baltimore-Washington Rapid Rail (BWRR) for a dedicated alignment and structures associated with a high-speed superconducting magnetic levitation (SCMAGLEV) transportation system between Washington, DC, and Baltimore, MD. A WQC from Maryland is required for discharges associated with US Army Corps of Engineers (Corps) permit application CENAB-OPR-MN NAB-2016-01622. Notice of public informational hearings related to this WQC request was posted on MDE's website on August 25th, 2023 as well as in *The Baltimore Sun* and *The Washington Post* newspapers, and distributed to interested persons. MDE held a total of four hearings in 2023 related to the WQC request: three in-person hearings on October 11th (Upper Marlboro, MD), October 12th (Baltimore, MD), and October 17th (Annapolis Junction, MD), and one virtual hearing on October 19th. The public comment period ended on November 16, 2023. Public testimony was provided at the hearings and additional comments were received within the notice period either in-person, via phone, via letter, or via email.

On December 22, 2023, the Department notified BWRR that it intended to deny without prejudice the request for Certification within the reasonable period of time (on or before February 7, 2024) due to lack of information demonstrating that this project will comply with water quality standards. This letter was preceded by a request for detailed information from the Department on September 8, 2023, and subsequent

meetings between the Department, BWRR and BWRR's consultant, WSP USA Inc., to provide guidance on information needed as well as feedback on draft materials as identified in the December 22, 2023 letter to BWRR. In addition, meetings or calls between the Department and BWRR were held on June 15, July 13, July 28, and August 2, 2023 to discuss the WQC request and the review process prior to the Department's request for information.

After completing the required public process and reviewing the WQC request in accordance with regulatory requirements, the Department then received a letter from BWRR on December 27, 2023 withdrawing the WQC request for this project. The Department hereby acknowledges and accepts this withdrawal, which was solely initiated by BWRR. No further action is required to be taken on this request for Certification as it has thereby been withdrawn by the applicant, rendering any action by the state of Maryland as moot.

Any future requests for Certification must be initiated with a new request in accordance with Section 401 of the Clean Water Act and Department requirements. As the December 27th letter states BWRR's intent to reapply for a Certification when project details sufficiently address Department comments, the Department would like to convey that all information related to water quality as identified in our December 22nd letter must be included in any new request. It should also be noted that additional information may be necessary with any new Certification request. It is strongly recommended (although not required) that BWRR request a new Certification only after federal review of the project under the National Environmental Policy Act (NEPA) resumes and there is more certainty around the preferred alignment and federal approvals, since a Certification decision is required due to discharges associated with the Corps permit application identified above.

MDE considers this Certification request (23-WQC-0007) closed. Please do not hesitate to contact me at danielle.spendiff1@maryland.gov or 410-537-4023 with any questions regarding this matter.

Sincerely,



Danielle A. Spendiff, Chief
Regulatory and Customer Service Division

cc: Joe DaVia, U.S. Army Corps of Engineers
Heather Nelson, MDE