UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

APR - 4 2016

Colonel Jason Kelly
District Engineer
U.S. Army Corps of Engineers
803 Front Street
Norfolk, Virginia 23510

Dear ~~Colonel Kelly~~: Jason

On March 11, 2016, the U.S. Environmental Protection Agency (EPA) provided comments in response to Public Notice NAO-2006-5097 for Centerville Properties Development, located south of Virginia Beach City in the Greenbrier area of Chesapeake, Virginia. Our letter referenced Part IV, paragraph 3(a), of the 1992 Clean Water Act (CWA) Section 404(q) Memorandum of Agreement (MOA) between EPA and the Department of the Army. The letter expressed EPA's concern that the project may adversely affect aquatic resources and result in significant degradation of the aquatic ecosystem, and that efforts should be made to address the impacts. EPA's comments of March 11, 2016 are incorporated herein by reference (copy enclosed).

The project proposes to place fill in 47.1 acres of forested wetlands for a 53.8 acre mixed-use development in a portion of a 428 acre site. The forested wetlands on this parcel are part of a larger unique and valuable wetland ecosystem that is a remnant of the extensive wetlands that once covered the coastal plain. The project is proposing impacts to aquatic resources of national importance (ARNI) which includes wetlands and waters adjacent to a tributary to Stumpy Lake and the North Landing River. The southern portion of the property drains to Gum Swamp, which is also within the North Landing Watershed. The North Landing River is a tributary to the Currituck Sound and Albemarle Sound. Aquatic resources in the coastal plain have experienced significant losses from development and degradation. These past and ongoing losses, along with new threats such as climate change, increase the value of the existing aquatic resources and their contributing functions in the watershed.

EPA's March 11, 2016 comments were based on the Public Notice issued January 20, 2016, supplemental documentation to the application, and associated attachments and plans. EPA's letter expressed concerns regarding the potentially significant environmental impacts associated with the current proposal, and stated that the project does not appear to represent the least environmentally damaging practicable alternative, that upland alternatives appear to be available, and that the proposed compensatory mitigation plan may not be effective in ensuring compensation for lost wetland functions. Our March 11, 2016 letter included an enclosure providing technical comments, which we recommend be addressed by the applicant.

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As explained in our letter, this project would result in significant direct impacts to potentially high quality wetlands and to a large area of mature forested wetlands, which are becoming more rare in the in the Mid-Atlantic region. These wetlands are important components of the larger aquatic ecosystem. In light of the reported degradation in Stumpy Lake and downstream, the need to reduce adverse impacts is critical to the watershed. In addition, the loss of important resource functions, including habitat, nutrient cycling, and carbon storage is likely to be substantial. Mature bottomland hardwood forested wetlands are difficult to replace ecosystems that will take many decades to be established, and replacement wetlands are still likely to have lower functions than the natural system.

EPA continues to be concerned that this project may not comply with the CWA 404(b)(1) Guidelines (Guidelines), 40 C.F.R. Part 230. Specifically, EPA believes that practicable alternatives exist that would avoid and minimize significant project-related impacts, including upland alternatives (40 C.F.R. 230.10(a)). EPA believes that additional avoidance and minimization efforts should be implemented to reduce the adverse impacts of this proposal (40 C.F.R. 230.10(d)). The anticipated impacts are likely to cause or contribute to significant degradation of waters of the United States (40 C.F.R. 230.10(c)), and that the direct and cumulative impacts of this project will further contribute to significant watershed degradation that will not be sufficiently or effectively compensated for by the proposed compensation plan (40 C.F.R. 230.91). Given the scale and scope of potential impacts to valuable mature bottomland hardwood wetlands, EPA continues to recommend an Environmental Impact Statement be prepared to provide a robust analysis of the direct, secondary, and cumulative impacts in accordance with the National Environmental Policy Act.

At this time, additional information has not been provided to address these concerns. Consistent with Part IV, paragraph 3(b), of the 1992 CWA 404(q) MOA between EPA and the Department of the Army, EPA believes that the project, as described in the information provided to EPA, will result in substantial and unacceptable impacts to aquatic resources of national importance.

We look forward to working with you to discuss and resolve these important issues. If you have any questions, please do not hesitate to contact me or have your staff contact Mr. John R. Pomponio, Director of EPA Region III's Environmental Assessment & Innovation Division, at 215-814-2702.

Sincerely,

Shawn M. Garvin
Regional Administrator

Enclosure