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October 13, 2021

Atten: Jeffrey Thompson
Maryland Department of the Environment
1800 Washington Blvd.
Baltimore, MD 21230

Re: The Nontidal Wetlands and Waterways Permit No. 19-NT-0228/201961268 issued by the Maryland Department of the Environment on June 11, 2020 to CREG /Westport I LLC.

Friends of Harford (FOH), is an organization dedicated to advocating for responsible land use in Harford County. We believe permitting this project contradicts Harford County's Master Land Use Plan and the goals of Maryland's tax incentive designated Enterprise Zone areas. Plus, the project negatively impacts Otter Point Creek (a Tier II watershed) and further degrades water quality in the Bush River and the Chesapeake Bay. Overall the project harms the quality of life for Harford County's citizens. We find the Socio-Economic Justification and the Antidegradation Report put forth by the Applicant GTA to be deficient in several areas.

The Harford County Master Land Use Plan (HarfordNEXT) is a policy document of the Department of Planning and Zoning, codified by the County Council and ratified by the County Executive, Barry Glassman. It prioritizes the preservation of the County's most environmentally sensitive and valuable lands. **HarfordNEXT identified Abingdon Forest as an "essential hub" and a priority "Core Forest for preservation"**. The County's Green Infrastructure plan describes the ecological services provided by the Abingdon Forest, stream and nontidal wetlands **as paramount to maintaining a high quality of life for our citizens**. "Forests provide public benefits - including flood protection, erosion control, and removal of pollutants from the air and water." The implementation of the plan also calls for the County to "Protect Tier II subwatersheds and Targeted Ecological Areas." COMAR 26.23.02.02 requires that the "Department shall consider the functions of, and benefits and economic value provided to the general public by the non-tidal wetland adversely impacted by the regulated activity, and the ability of the non-tidal wetland to continue to provide those identified functions and benefits to the general public." **Evaluations of the ecological and economic value in terms of the ecosystem services associated with the non-tidal wetland is not provided to the public in this report.** If the permit is granted and 330-acres of forest are cleared, the above stated benefits and county priorities will no longer be provided to the general public and meet the land use plans of HarfordNext. <https://www.harfordcountymd.gov/DocumentCenter/View/12327/Green-Infrastructure-Plan>

A 2019 resolution which expanded Harford County's Edgewood/Joppa Enterprise Zone to include the proposed Abingdon Forest was opposed by many Harford County citizens, FOH and even Councilman Andre Johnson, who represents the Joppa and Edgewood areas. The inclusion

of the property into the Enterprise Zone allowed an opportunity to circumvent Laws protecting Tier II waters. Pursuant to COMAR 26.08.02.04 -1 K: Demonstrating Social and Economic Justification for an Impact to Tier II Waters, which states “the requirement for social and economic justification is met if the following demonstrations are made: the watershed affecting the Tier II water is located in a priority funding area (Enterprise Zone) as defined in State Finance and Procurement Article, § 5-7B-02, Annotated Code of Maryland”.

This expansion is not consistent with the County’s stated definition of an “Enterprise Zone” and is not in the best interests of the Harford County residents. Harford County's focus on its Enterprise Zones in Aberdeen, Havre de Grace, Edgewood and Joppa is designated by the Maryland Department of Business and Economic Development for the purpose of:

- *Promoting development and occupancy of vacant, underutilized land and buildings.*
- *Support the county's commitment to revitalizing older industrial areas of Harford County.*

Abingdon Forest does not contain any underutilized land or buildings. It is a mature forest with a stream and wetlands, not an old industrial area. This forest is located in a residential area and borders an elementary school and a church. In addition to the increased water and air pollution, the project will subject school children and local residents to daily diesel fumes, truck traffic and noise. The tractor trailer traffic will share the same bus and sidewalk routes these children use to get to and from school.

COMAR 26.08.02.04 Anti-Degradation Policy

Waters of the State shall be protected and maintained and that any permitted changes to Tier II water quality must “not diminish uses made of, or presently existing in the impacted Tier II waters”. This project will impact 7.9 acres in the Otter Point Creek Watershed, a Tier II stream which needs and deserves to be protected for the health of the Bay. Applicant states, “To minimize impacts to the watershed, the Applicant is limiting forest clearing to approximately 5.58 acres within the Tier II Otter Point Creek watershed”. The applicant proposes a “gas station” will be constructed in the Tier II watershed.” Placing a gas station in this Tier II watershed **will NOT “minimize” the impacts** of this project on this very sensitive and unique ecosystem.

The antidegradation report provides no baseline water quality data or wildlife survey so monitoring the certain effect of this project on the Tier II Otter Point Creek is moot. With no assimilative capacity, any impacts to the watershed will degrade Otter Point Creek and it will **lose its Tier II ranking**.

COMAR 26.23.02.04 D. Practical Alternative Analysis – (2)” In determining whether the proposed regulated activity has a practicable alternative, the Department shall consider whether: (a) The basic project purpose cannot be reasonably accomplished using one or more other sites in the same general area as the proposed project that would avoid or result in less adverse impact to nontidal wetlands under the criteria in Regulation .05 of this chapter.

If a Tier II antidegradation review is required, the applicant shall provide analysis of reasonable alternatives that do not require direct discharge to a Tier II water body (no discharge alternative)”

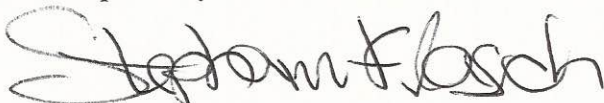
This requirement has not been met; Harford County currently has 26 industrial buildings and warehouses for sale or lease totaling 27,710,820 square feet - and more being built during this review with an addition 5,575,355 square feet of Office and Retail Space available. The majority of these sites are all located within one of the two "Enterprise Zones" located in Harford County to encourage new development and new jobs by revitalizing older industrial areas. These older industrial areas are located within the Development Envelope due to its ideal location near Interstate 95 and MD Route 24, in the area planned for "Industrial/Employment" land use.

With the abundance of vacant real estate available it is not in the best economic interest of Harford County to pursue the development of an additional 1,000,000 square feet or more of warehouse space. We see no reason why "The basic project purpose cannot be reasonably accomplished using one or more other sites in the same general area as the proposed project that would avoid or result in less adverse impact to nontidal wetlands."

In addition, the applicant's alternative site analysis fails to consider and evaluate the prospects of utilizing space at the massive industrial complex in Baltimore City called Tradepoint Atlantic just to the south of the County. This site has warehouses that meet the Applicant's size requirements, the site has direct access to 695 and 95 and has access to rail ports in Baltimore. Tradepoint Atlantic appears to check all the applicant's criteria, yet it was not analyzed or included in the Alternative Site analysis of the Justification. Tradepoint Atlantic is a fully developed, full-service site and the applicant's development on this site would have much less environmental impact, limit sprawl and utilize existing infrastructure. Most importantly, the Tradepoint Atlantic site avoids destroying a Tier II watershed and preserves 330 acres of forest and wetlands. <https://www.tradepointatlantic.com/>

In conclusion, Friends of Harford finds the Socio-Economic Justification and the Antidegradation Report put forth by the Applicant GTA to be inadequate. The justification contains no analysis of potential impacts to water quality and does not provide MDE adequate information or analysis to allow for a science based and reasoned decision to grant this permit. The reports fail to explain why the project cannot be located in an alternative location and how the project will promote public safety and welfare. The justification does not discuss the lack of assimilative capacity in Otter Point Creek and the impacts of degradation below Tier II thresholds. It does not discuss current pollutant loads to the watershed compared to estimated pollutant loads during and after construction of this project or the duration and extent of any impacts to the Tier II watershed analysis. **We respectfully request that MDE revoke the Wetland and Waterways Permit.**

Respectfully,



Stephanie Flasch
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