

Public Comments Fort DuPont Redevelopment and Shore Stabilization Project 2 November 2021

Background: The Fort DuPont Redevelopment and Preservation Corporation submitted an application to DNREC to install slope stabilization revetment along the eastern bank of the Delaware City Branch Channel to the Chesapeake and Delaware Canal. DNREC published a public notice in September 2020, held a virtual Public Hearing in January 2021 and re-published a Public Comment Period in October 2021 and ending 2 November 2021.

Those previous permit applications as well as the public hearing exposed a vast number of known false material facts. The applications also violated critical submission requirements for Wetlands and Subaqueous Lands Permits.

The new permit application submitted by Fort DuPont Redevelopment and Preservation Corporation correct many of the administrative material misrepresentations made in previous permit applications and at the Public Hearing. However, the 2021 permit application still misrepresents cogent material facts which the applicant knew or should have known to be false or misleading.

The oversight or perhaps intentional misleading information in the application is even more concerning given the fact that DNREC served notice to the Fort Corporation in May of 2021 when it issued violations to the Fort DuPont Redevelopment and Preservation Corporation for Sediment and Erosion Control. This fact alone stands as testimony as to why a Public Hearing must be done in order to preserve the Wetlands and Subaqueous Permits process with an organization that has been issued violations in the past and has submitted prior misleading and false information for this project.

Lines 4 & 16, Basic Application. Lines 4 & 16 indicate that the permit is sought to “Repair/Replace existing structure? (If checked, must answer #16)”

However, Appendix I of the application, Line 1 contradicts Lines 4 & 16. Line 1, Appendix I reads:

“Will the project be:

- New Construction (un-stabilized shoreline)
- Repair or Replacement of an Existing Rip-Rap Structure
- Repair or Replacement of an Existing Bulkhead”

Fort Corp selected that the revetment is new construction when either or both of the other two statements are accurate.

There is a case evident among the remnants that both existed at one time or another. However, IF, either of the two non-selected options were chosen, the application requires photographs of the entire existing structure. To provide such documentation would require additional work to submit with the application. To present the photos would open the stabilization project to the scrutiny of destroying historic artifacts. This would pose serious challenges.

Moreover why the application was not internally consistent begs the question of the process by which the Fort Corp submits its permits. Does a system of checks and balances exist? Is there a review process for permit applications? Are permit applications processed by only by junior staff members and left unchecked by leadership? Is the permit application process establishing a low standard accepted by the leadership? Is there any attention to detail at the Fort Corp?

If photos had been submitted as part of the permit application and Appendix I, Line 1 accurately answered, those who review the application would be able to see portions of earlier, much older construction in the area to be destroyed by this slope stabilization project.

Below are some scenes from the Delaware City Branch Channel of the area to be removed and stabilized by this permit. At no point has any organization or office reviewed these remnants to determine their historical significance. If this permit is approved, these historic parts of the original Chesapeake and Delaware Canal will be destroyed forever. To date, almost \$20MM of taxpayer money has been used by the Fort Corp; a majority of which has been spent to save historic structures. It is reported that the oldest of these rehabbed structures date to 1898 and none of the structures rise to more than historic architecture. Yet the last vestiges of the original Chesapeake and Delaware Canal, a canal from 1829 that provided for the growth of the nation is placed on the developer's chopping block and the remnants of national historic significance lost forever.

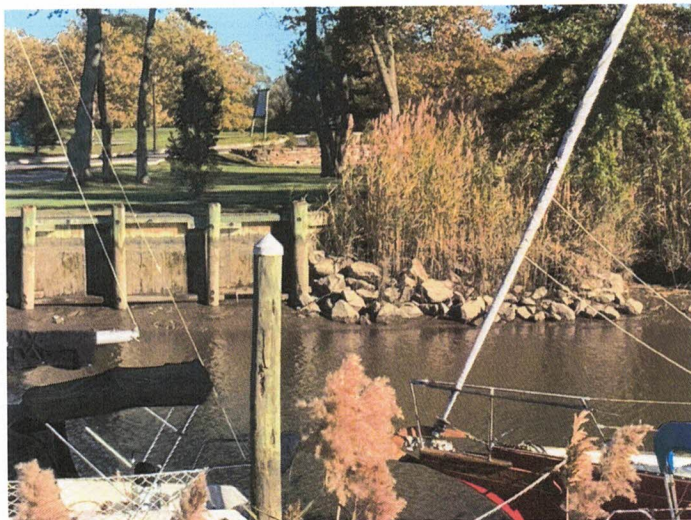


Photo 1. In the background is the west end of Fort DuPont's boat ramp complex where the bulkhead meets a rip-rap revetment. This is the area included in the application as Figure 2, Scaled Plan View, near where the heavy, dark line labeled the TC-3 STD encompasses the north end of the worksite.

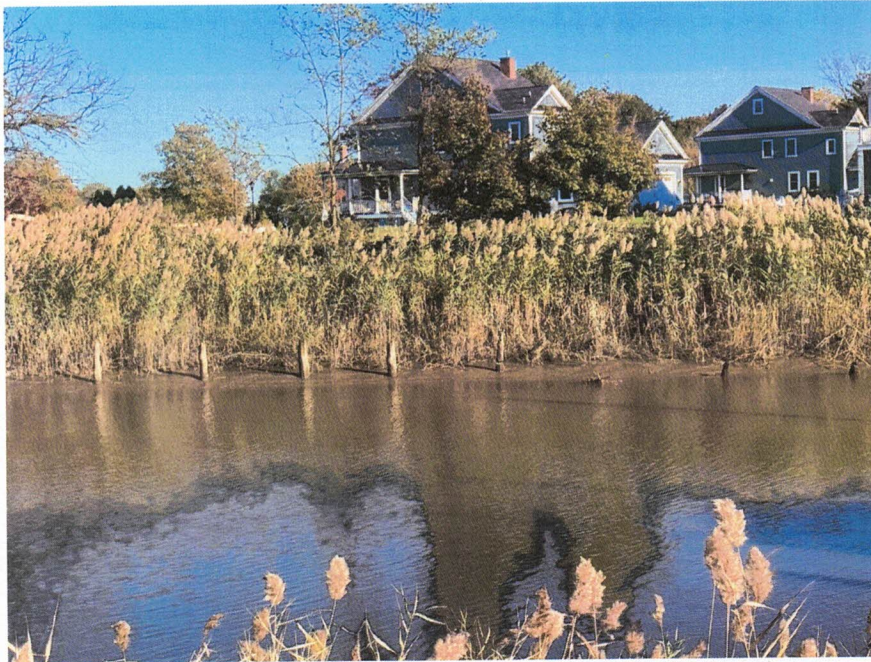


Photo 2. Seen in front of the phragmites are existing old piles of previous construction of the Chesapeake and Delaware Canal. This area is within the slope stabilization work site. The locations of these piles are faint and difficult to see on the Scaled Plan View of the application. The piles are shown in the background of the contour lines on the Scaled Plan Views.

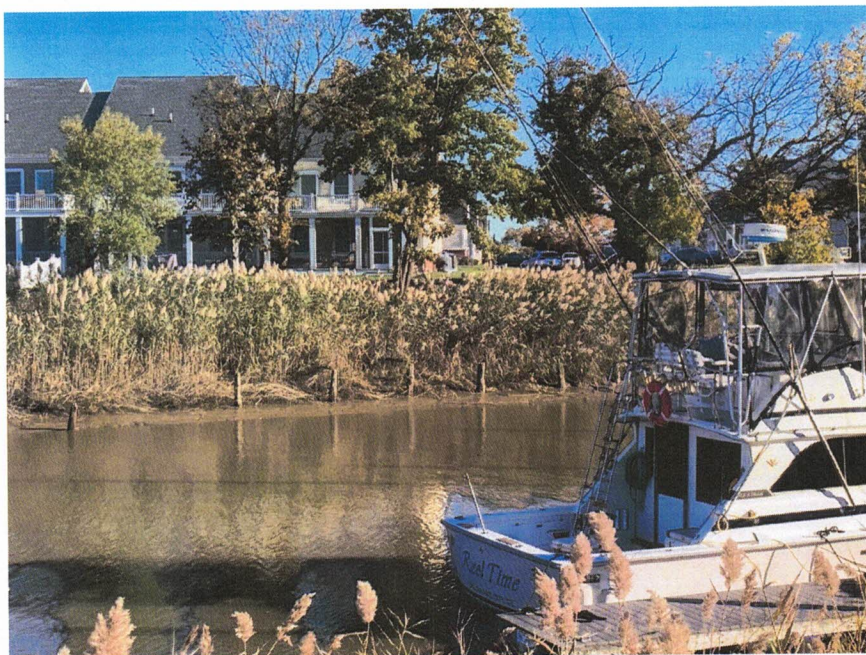


Photo 3. More remnants of the Chesapeake and Delaware Canal construction. The locations of these piles are faint and difficult to see on Figure 2 of the application. The piles are shown in the background of the contour lines

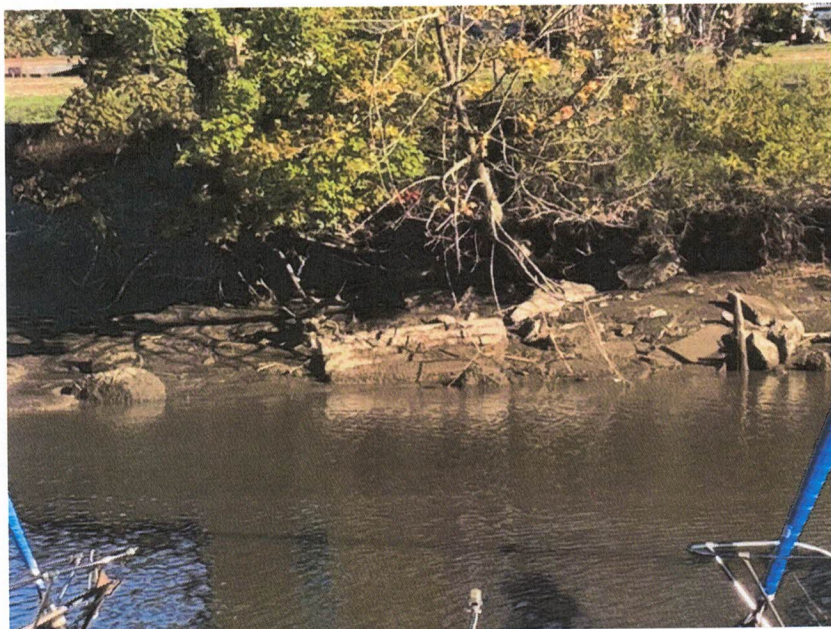


Photo 4. Rubble remnants are visible along the length of the shoreline. Seen are concrete steps.

To date, this application process has been devoid of any historic review. There has been no Section 106 Review Process. The altering of the shoreline and destruction of these artifacts is premature without a Section 106 Review Process. The Fort DuPont Redevelopment and PRESERVATION Corporation should attempt to live by its name and request a Section 106 Review Process before any permit application is accepted by the state or USACE.

The aesthetics of the rip-rap revetment have not yet been addressed by the Fort Corp. The removal of the trees and shrubs, the laying bare of the historic channel and view of it from the historic district is, as planned, objectionable. The Fort Corp needs to present a viable alternative to the exposed rip-rap scheme. The preservation of these artifacts and the slope stabilization require a world-class design of international significance. The design must be a waterfront landscape of merit rather than a hard industrial appearance.

Line 5, Basic Application. Line 5 of the current application states that approximately 2000 linear feet of rip rap will be installed along the Delaware City Branch Channel. However, Appendix I, Line 2 states 1,600 linear feet of the shore line will be stabilized. This discrepancy may appear to be insignificant if it did not perpetuate the same lack of supervision and lack of a review process as the previous applications and the Public Hearing. Exactly how difficult is it for an organization which receives millions of taxpayer dollars to review and correct small errors. It leaves the public to wonder how many greater errors; errors of consequence the Fort DuPont Redevelopment and Preservation Corporation leaves untouched with its lack of decision making apparatus.

Line 19, Basic Application. The lack of attention to details on the permit application manifests itself at Line 19. Fort DuPont leadership lists the name and contact information for an authorized agent but fails to check the block that affirmatively states either:

"I wish to authorize an agent as indicated below ____" where a check or "X" is to be placed. Or

"I do not wish to authorize an agent to act on my behalf _____".

Although the agent's name and contact information is filled in, the block that requires either acceptance or denial of the agent's appointment is not authenticated. This oversight has a potential major legal complication if the agent operates in an illegal capacity. The entire designation by authenticating the appointment could be wished away as an oversight of an overburdened, too-busy executive to pay attention to the petty demands of checking a block on an official government document. This oversight and lack of attention to detail is sufficient to deny the entire application and return it to the applicant to be corrected. Without doing so subjects the corporation, DNREC and possibly the agent to various liabilities including performance bonding.

Appendix I to the Basic Application has a number of technical issues. All of the issues were pointed out in previous public comments and left untouched save for the addition of an anchor toe.

Appendix I and the Basic Application have different facts as to the linear feet the project will be and whether the project is new construction or repairing old structures.

Line 8D states that no filter cloth will be used. However, each of the Scaled Cross-Section or Elevation View Plans drawings show "Prop. GEOTEXTILE GEOTEX 315ST OR APPROVED EQUIVALENT" to be placed under the rip rap. Again, this calls into question the process by which the Fort Corp prepares processes and submits permit applications to government agencies for their review and approval. If this state agency which has garnered about \$20MM taxpayers dollars can be so cavalier, inattentive and sloppy in the process of submitting paperwork, it begs the question of real, substantive oversight of anything it does? How much has the Fort Corp defrauded the taxpayers? How much of what it said it was going to do, never got done because of the same ineffective leadership that does not even bother to correct paperwork on an application?

It is only more alarming that this same note was included in previous public comments and not addressed over the past year.

Appendix I have the same issues which have been presented in previous public comments. Namely, the total cubic yards as determined by the DNREC formula does not match the total cubic yards by the application.

In Appendix I, Line 5 Fort Corp states the project will use 5,363 +/- cubic yards of rip-rap..

DNREC provides the following formula in Appendix I to compute cubic yards:

$$0.5 * \text{RUN} * \text{RISE} * \text{Linear feet of shoreline stabilized} / 27 = \text{Total Cubic Yards}$$

In this case:

$$0.5 * 48 * 24 * 1600 / 27 = 34,133 \text{ cubic yards}$$

Appendix I, Lines 8E and 8F and the RIPRAP SLOPE EXHIBITS attached to the application indicate a 2:1 slope. When one investigates the Scaled Plan View WETLAND PERMIT EXHIBITS, SITE PLAN one can make a reasonable conclusion of a 2:1 slope. However, when one studies the more detailed cross section drawings, (Scaled Cross-Section or Elevation View Plans one concludes the slope is 3:1. The horizontal drawing shows a 48 foot run and 24 foot rise. The vertical drawing more clearly shows a 72 foot run and a 24 foot rise or 3:1 slope.. This discrepancy must be fixed for any permit can be approved.

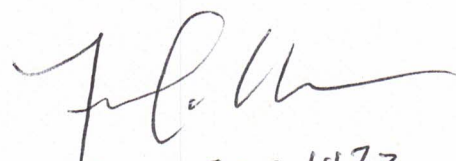
The slope is important to determine prior to approving the permit. The applicant needs to address the discrepancy between the engineering drawings before any permit is granted as this impacts the correct amount of cubic yards of rip-rap (required for line 5 of Appendix I) and the correct cubic yards of rip-rap per running foot of shoreline (Required for Line 6 of Appendix I).

Line 8C of Appendix I asks, "Will the revetment be backfilled?" The Fort Corp indicates that the revetment will not be backfilled. However, the engineering does not reflect that the revetment will not need to be backfilled. Again, if the revetment would be backfilled would require a complete and new Appendix to be included with the permit application. A casual observer can only conclude that the Fort Corp is not interested in completing applications or following the DNREC's procedures.

At no point does the applicant address the fact the construction is to be done on a federal, navigable channel and the coordination with the USCG, DNREC Fish and Wildlife nor the marina on maintain the channel open for boaters.

Finally, the permit lacks any element of a Sediment and Erosion Control Plan specific to this project. Although the Wetlands and Subaqueous Permit Application does not list such a plan, it is required for any construction in the state. Perhaps the Fort Corp is under the impression that the Sediment and Erosion Control Plan in place for the Canal District will suffice for construction on others property. This is a serious missing link in the permit application.

In conclusion, this permit needs to be returned to the applicant to have the technical issues addressed and corrected. These same issues were raised during the public comment period for this same permit a year ago and are left unaddressed. The applicant requires supervision and when submitting permit applications as their process is a four time failure.


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