

January 12, 2022

Via Electronic Mail

Ms. Rebecca Bobola
DNREC – Division of Water Resources
Wetlands and Subaqueous Lands Section
89 Kings Highway
Dover, Delaware 19901

RE: Docket #2021-W-P-0021
Duffield Associates Project No. 10801.CY
Branch Canal – Shoreline Stabilization
Fort DuPont Redevelopment and Preservation Corporation
Delaware City, Delaware

Dear Ms. Bobola:

Duffield Associates, LLC (Duffield) is responding to the public comment received and has modified the Fort DuPont Redevelopment and Preservation Corporation (FDPRC)'s permit application where appropriate. The comments received were not numbered and, in some cases, contained some editorial remarks that have been largely omitted from this discussion. The "Comments" below represent the factual and technical aspects of the comments and were taken verbatim from the document provided by you.

1. **Comment:** *Lines 4 & 6, 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.

Response: The response on Line 4 of the Basic Application Form has been changed to indicate that this application is considered a new permit. The response on Line 16 has not been changed since there are remnants of the revetment still present on the banks of the Branch Canal, but the permit application is considered "new" since the existing remnants of the revetment structure are no longer serviceable. The disrepair of the existing revetment is the reason for this permit application.

2. **Comment:** *There is a case evident among the remnants that both existed at one time or another. However, IF, either of the two not-selected options are chosen, the application requires photographs of the of the entire existing structure. To provide the photos would option the stabilization project to the scrutiny of destroying historic artifacts. This would pose serious challenges.*

Response: The application is considered “new” construction, so photographs are not required. The plans submitted with the permit application show the remnants of the existing revetment and the response on Line 16 indicated there was a revetment on the site. As such, there was no intention to hide the fact that there were remnants of the existing structure present. In addition, the Delaware, Division of Historic and Cultural Affairs has been notified, a Phase I Archeological Evaluation has been completed, and the U.S. Army Corps of Engineers archeologist is reviewing the Section 404 and 408 applications to ensure no historic artifacts are destroyed without being properly documented.

3. **Comment:** *To date, the application 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 and name a request a Section 106 Review Process before any permit application is accepted by the state or USACE.*

Response: The Delaware, Division of Historic and Cultural Affairs has been notified, a Phase I Archeological Evaluation has been completed, and the U.S. Army Corps of Engineers archeologist is reviewing the Section 404 and 408 applications to ensure no historic artifacts are impacted without being properly documented. The Section 106 review process is required for Federal projects and not a DNREC issue, which is why no discussion was included in this permit application.

4. **Comment:** *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, and planned, objectionable. The Fort Corp needs to present a viable alternative to the exposed rip-rap scheme. The preservation and 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.*

Response: The aesthetics of the historic canal district are important to the applicant as well. However, the primary purpose of the revetment project is to stabilize the existing banks of the branch canal and protect the adjacent properties, so the riprap needs to be extended to the top of the bank as was done on the north side of the canal. The existing trees and shrubs will be removed for the construction of the promenade, so regardless of the revetment project the view shown in the photographs presented by the commentor will change.

5. **Comment:** *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 shoreline will be stabilized.*

6. **Response:** The original design included the stabilization of 2,000 linear feet of shoreline. The length of shoreline to be stabilized has been reduced to 1,600 linear feet and Line 5 of the Basic Application has been revised.

7. **Comment:** *Line 19, Basic Application. Fort DuPont leadership lists the name and contact information for an authorized agent but fails to check the block that affirmatively states either:*

Response: The correct box has been checked.

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

Response: No dredging or backfill of any consequence is necessary.

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

Response: This comment addresses the same issue raised in Comment 5 and the same Response applies: the original design included the stabilization of 2,000 linear feet of shoreline. The length of shoreline to be stabilized has been reduced to 1,600 linear feet and Line 5 of the Basic Application has been revised.

10. **Comment:** *Line 8D state that no filter cloth will be used. However, each of the Scaled Cross-Sections or Elevation View Plans drawing show "Prop. GEOTEXTILE GEOTEX 315ST OR APPROVED EQUIVALENT" to be placed under the riprap.*

Response: Line 8D on Appendix I has been revised to indicate that a geotextile fabric was going to be placed behind the riprap.

11. **Comment:** *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.*

Response: The example calculation presented on Appendix I assumes the width of the base of the riprap will be twice as wide as the width at the top of the revetment. In this case the width of the riprap will be the same at the top and the bottom, as such the volume of riprap presented on Line 5 on Appendix I is correct.

12. **Comment:** *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 once 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 24 foot rise or 3:1 slope.

Response: The slope is 2:1 throughout, although minor variation should be expected. As such, a +/- has been added to the cross-sections included with the permit application.

13. **Comment:** *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 of Appendix I).*

Response: The example calculation presented on Appendix I assumes the width of the base of the riprap will be twice as wide as the width at the top of the revetment. In this case the width of the riprap will be the same at the top and the bottom, as such the volume of rip-rap presented on Line 5 on Appendix I is correct.

14. **Comment:** *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.*

Response: No backfill is proposed as such Appendix H was not completed.

15. **Comment:** *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.*

Response: As noted by the applicant's consultant, the Delaware City Branch Channel was directed to be conveyed from the US Army Corps of Engineers (USACE) to the FDRPC through the America's Water and Infrastructure Act of 2018, otherwise called WRDA 2018, an Act of Congress which became law on October 23, 2018. Section 1331 details the Conveyances, and subsection (f) addressed the Fort Dupont. A copy of this law has been posted by DNREC on the public hearing webpage. The transfer associated with this conveyance is ongoing and is expected to be complete in 2022.

Prior to this conveyance and the transfer, USACE provided an easement dated June 12, 2018 between the USACE and the FDRPC to permit FDRPC access to the property and permission to reconstruct the banks of the branch channel. A copy of this document has been enclosed.

16. **Comment:** *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.*

Response: A Sediment and Erosion Control Plan does not need to be included with a Subaqueous Lands permit application. A Sediment and Erosion Control is plan is required on any project disturbing an area greater than 5,000 square feet. The commentor is incorrect that the overall "...Sediment and Erosion Control Plan in place for the Canal District will suffice..." for the construction of the revetment proposed in this permit application. A Sediment and Erosion Control plan titled "Overall Post Construction Stormwater Management Plan, Sediment and Stormwater Management Plans, Fort DuPont, Phases 1A, 1B, 1C, 1D (Canal District/Officers Row), Land Development" was submitted and approved on 12/15/2021 for this project. Sheet 3 of 23 contains the information pertaining to revetment of the southern bank of the Branch Canal being addressed in this permit application.

Comment: *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.*

Response: We appreciate the commentors efforts to ensure that the permit application is correct and complete. The minor technical and administrative issues have been addressed or were invalid, and as such, we recommend that the DNREC – Division of Water Resource, Wetlands and Subaqueous Lands Section complete the review process.

If you have any additional questions or comments, please contact us.

Very truly yours,

DUFFIELD ASSOCIATES, LLC



Ralph B. Downard, Jr., CPSS
Natural Resources – Practice Leader

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cc: Jeffrey Randol, Fort DuPont Redevelopment and Preservation Corporation