



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**Intercounty Connector
Mandatory Referral No. 06809-SHA-1
Status Report #5**

Prepared 2/2/07 for discussion at the 2/8/07 Planning Board Roundtable

This memorandum is ICC Status Report #5 to the Planning Board under condition #16 of the ICC mandatory referral. Staff have been working on the concerns expressed by the Planning Board during the December 7, 2006 consideration of the remaining Advanced Land Acquisition Revolving Fund (ALARF) properties regarding temporary easement conditions, the Western Maintenance Facility location, and the process for Water Quality Plan reviews in Special Protection Areas.

Chairman Hanson hosted a productive meeting on January 5, 2007 with Neil Pedersen, Trent Kittleman, Tim Firestine, Art Holmes, representatives from EYA and several agency staff members. Following that meeting, we have reached agreement on all three items:

- The Temporary Construction Easements for parkland,
- The process and timeline for all agencies and EYA to pursue the Western Maintenance Facility relocation, and
- The process for water quality plan review in Special Protection Areas.

Each of these items is discussed in further detail below.

TEMPORARY CONSTRUCTION EASEMENTS

The ICC Record of Decision (ROD) includes approximately 16 acres of Section 4(f) parkland property for which either a temporary easement is contemplated for erosion and sediment control or a perpetual drainage easement is contemplated. These areas were incorporated into the Section 4(f) impacts associated with the Planning Board's September 2005 acceptance of the Section 4(f) parkland mitigation package.

The Federal Highway Administration has determined that the proposed use of certain parklands for erosion and sediment control meets the Section 4(f) requirements for temporary use. Staff noted during the mandatory referral that while the use may be formally considered temporary, and while the impacts were accounted for and assumed in the development of a replacement parkland strategy, reducing the extent of forest clearing and grading on these areas remains desirable. The state has included financial incentives to reduce the impacts to these areas.

Where temporary impacts occur, M-NCPPC will need to determine what remediation activities are required to accept the temporary use impact. These remediation activities

are defined in the Temporary Construction Easement (TCE) language included as Attachment A. The key elements of the TCE conditions are as follows:

- Transfer of conditions to contractors working on site
- Field demarcation of easement areas
- Non-erosive conveyance of runoff
- Use of M-NCPPC specifications for tree removal, stabilization, soil types, seed mixtures, and plant installation
- Notification for property access
- Restoration and repair
- Tree protection
- Maintenance
- Protection against non-native invasive species

WESTERN MAINTENANCE FACILITY

SHA, MdTA, and EYA have concurred on a conceptual plan and schedule for moving the Western Maintenance Facility from the “Casey 7” property shown in the Record of Decision to the southern half of the “Casey 6” property directly across I-370 from Casey 7. The primary issues to resolve are identified in the MdTA January 2 correspondence contained in Attachment B and summarized below:

- Documentation of any adverse impacts (already identified concerns include approximately 0.25 acres of wetlands and historic resource concerns of the Town of Washington Grove) for NEPA study purposes, through preparation of a Supplemental Information Report (SIR) to be prepared by EYA and approved by FHWA by March 2007.
- Assurance that the master-planned extension of Crabbs Branch Way under I-370 can be constructed to provide roadway and utility access to the Casey 6 site by April 2008

To date, the following actions have occurred:

- SHA has coordinated the proposed relocation process with FHWA, MHT, USCOE, and MDE via the Interagency Working Group
- M-NCPPC has coordinated the proposed relocation process with DPWT, DPS, Fire and Rescue via the Development Review Committee
- EYA has prepared the Supplemental Information Report (SIR)
- M-NCPPC staff has met with community organization representatives who have expressed support for the facility location on Casey 6 provided it does not increase in scope and that it is properly screened.

Action items during the next month will include:

- EYA will provide engineering information on Casey 6 by March 31 to MdTA needed to begin design of the WMF on Casey 6
- M-NCPPC and MdTA will coordinate on site design elements that define the type, size, and location of buildings and the available aforestation and landscaping techniques that will be used to provide visual screening.
- M-NCPPC has tentatively scheduled Phase I of the Casey Property preliminary plan for Planning Board review on March 22.

WATER QUALITY REVIEW IN SPECIAL PROTECTION AREAS

SHA, M-NCPPC, and Montgomery County Department of Permitting Services (DPS) have been instrumental in developing an agreement regarding the process for ICC water quality plan reviews in the Upper Rock Creek and Upper Paint Branch Special Protection Areas (SPA). This process is described in Attachment C, and is summarized below:

- The process will be followed separately for the Upper Rock Creek SPA (in conjunction with the Contract A design-build process) and the Upper Paint Branch SPA (in conjunction with the Contract B design-build process).
- SHA will submit a mandatory referral package for each SPA that reflects both the plans, ROD commitments, and contract specifications, as well as the effects of relevant Compensatory Mitigation and Environmental Stewardship (CM/ES) projects designed to improve water quality in the SPAs.
- DPS staff will provide the concurrence described in the Record of Decision based on a review of plans, ROD commitments, and contract specifications, as summarized in the January 3, 2007 correspondence from the County Executive included in Attachment D. Because MDE is responsible for stormwater management plans, this process mirrors the County's review process, but places the Planning Board's review subsequent to MDE approval as opposed to DPS approval.
- M-NCPPC staff will continue to have daily involvement in design and construction through our involvement in the Environmental Management Team.
- M-NCPPC, DPS, and DEP will be involved in coordination meetings prior to the design-builder submitting water quality plans to MDE for approval
- Staff will schedule a Planning Board hearing after MDE approval that reflects the stormwater management designs approved by MDE. This hearing will consider all actions by SHA in the watershed including the Conceptual Mitigation and Environmental Stewardship (CM/ES) and their effects on the separate Special Protection Areas. Independently, as the CM/ES projects are designed, the Planning Board will discuss them as mandatory referrals.

SCHEDULE "A"
to
Deed to the State of Maryland
to the use of the
State Highway Administration of the
Maryland Department of Transportation
from
The Maryland-National Capital Park and Planning Commission

CONDITIONS WITH REGARD TO TEMPORARY CONSTRUCTION EASEMENTS

1. Contractor Obligations. SHA will provide a copy of the Deed, including this Schedule "A" to all contractors or agents of SHA that are provided access to the Temporary Construction Easements ("Contractor"). All rights of SHA hereunder will extend to such Contractors, and all obligations and commitments of SHA will apply to such Contractors.
2. Boundaries and Use of the Easement Area. The Easement Area will be clearly demarcated by SHA. SHA may only remove, clear and/or trim trees within the boundaries of the Temporary Construction Easement (sometimes referred to as the "Easement Area") as indicated in the final construction documents. Tree preservation will be performed in accordance with M-NCPPC Park Specification Section 721 – Tree Preservation. SHA will ensure safe and non-erosive conveyance of any stormwater runoff from the Easement Area onto adjacent Commission property.
3. Mitigation of Impact to Natural Resources. SHA has offered, and the Commission has accepted, and incentives program, as contained in the Contract A Request for Proposals, for its Contractor(s) to pursue construction alternatives that reduce the actual areas of disturbance within the Easement Areas to minimize impact to the existing natural resources. The Commission reserves the right to review the construction documents for the Easement Areas and, through its role on the Environmental Management Team (EMT) make suggestions as to the design or method of construction in the Easement Areas.
4. Required Notice To Enter Property. SHA will provide 3 working days notice in advance of entering the Easement Areas to commence construction ("Entry Notice"). Such notice will be in writing and will include reference to the Item No. and SHA Plat, and will be deemed given when received by the Commission. Notice will be given by phone call and email to each of the following M-NCPPC contacts:

Tom Hay
Mitra Pedoeem

If necessary, a replacement contact name and information will be provided to SHA should the above contact become unavailable.

5. Permits. SHA will obtain and maintain all appropriate permits and/or licenses required for the type of work in the Easement Area.

6. Restoration and Repair. SHA will restore the Easement Area, and any Commission property outside of the Easement Area that has been disturbed as a result of the activities of SHA, to the original grades and contours, and provide reforestation as required by the Commission's Planting Requirements for Land-Disturbing Activities on Commission/Montgomery County Parkland. SHA will promptly, upon completion of all work within the applicable Easement Area, perform all restoration work in a good and workmanlike manner and clean and clear the Easement Area of any debris, materials, tools and equipment.
 - a) All disturbed areas will be stabilized in compliance with the approved seed mixture (M-NCPPC Park Specification Section 705) and planting schedule specifications. Landscape soil will meet the criteria specified in M-NCPPC Park Specification Section 723 – Landscape Soil (Topsoil).
 - b) Site restoration and repair or replacement of damaged infrastructure will be in accordance with the Commission's Standard Details and Technical Specifications.
 - c) All plant materials, planting locations, and any plant substitutions and installation will be performed in accordance with M-NCPPC Park Specification Section 722 – Plant Installation.
7. Commission Access and Remedies. The Commission may, at all reasonable hours, enter onto the Temporary Construction Easements to inspect for compliance with the terms herein. The Commission must notify the SHA Construction Manager that they plan to be in the field prior to entering onto the property. In the event that SHA has failed to perform its obligations hereunder, SHA will restore the area as indicated in item #6 above.
8. Protection of Trees.
 - a) Within the Easement Area. Special protection measures such as a 12 " thick mulch layer for access bedding, tree protection fencing, will be provided as directed in the field by the Commission. The Commission has the right to inspect the condition of trees throughout construction and reserves the right to require repair by a qualified arborist, or replacement of any damaged trees at SHA's expense.
 - b) Outside the Easement Area. SHA will take measures to protect trees adjacent to the Easement Areas. If trees outside the Easement Areas are damaged, SHA will either:
 - i) retain an experienced and certified Arborist to make repairs; or
 - ii) if the certified arborist determines that a tree or shrub is damaged and not repairable, SHA, shall remove the tree or shrub and plant a replacement tree or shrub of the same species
9. Maintenance. SHA will secure and maintain, including the regular and periodic removal of trash and debris, the Easement Areas for the entire duration of construction and monitoring periods.
10. Protection Against Non-Native Invasive (NNI) Species. Within 30 days of Entry Notice, SHA will prepare and submit to the Commission a non-native invasive (NNI) species inventory and eradication plan for the Easement Area to the Commission's Senior Ecologist for review. During the term of the Temporary Construction Easements, SHA will manage NNI species within the Easement Areas in accordance with the document: *BEST MANAGEMENT PRACTICES FOR CONTROL OF NON-NATIVE INVASIVES.*



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TRANSPORTATION
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January 2, 2007

Mr. Brian Allan Jackson
Development Executive
EYA
4800 Hampden Lane
Suite 300
Bethesda, Maryland 20814

Dear Mr. Jackson:

The Maryland Transportation Authority (MdTA) will own, operate and maintain the Intercounty Connector toll road connecting I-370 in Montgomery County to US 1 in Prince Georges County. Through previous correspondence and subsequent meetings, EYA understands that this commitment will involve construction of extensive support facilities in close proximity of the highway providing immediate access for Authority Police, Courtesy Patrol and maintenance resources. These facilities will operate on a twenty-four (24) hour, seven (7) day a week basis to assure our customer's safe travel. A significant factor to opening the roadway to traffic on time is the completion of the Western Maintenance Facility in the Shady Grove vicinity a minimum of twelve (12) months prior to completion of roadway segment 'A' (I-370 to MD 97).

MdTA is willing to cooperate with EYA, the Planning Board, and the County to better accommodate the goals of the Shady Grove Sector Plan provided that doing so does not impact the timely completion of the Western Maintenance Facility. MdTA wishes to continue a cooperative working relationship with all stakeholders including the adjacent communities of Shady Grove and Washington Grove as well as M-NCPPC, the County and EYA. With these objectives stated time is of the essence for all parties to resolve the property and facility location issues.

Schedules from both an MdTA and EYA perspective need to be evaluated to identify critical dates and milestones. The design and construction schedule for the Western Maintenance Facility to be built on Casey 7 has been developed. This schedule was established with a constraint for completion and occupancy of the building twelve (12) months in advance of the proposed completion for roadway segment 'A'. The schedule reflects a 15-month construction duration considering a notice-to-proceed of December 2007 resulting in a project completion date of February 2009. EYA presented a proposed

B-1

Mr. Brian Allan Jackson
EYA
January 2, 2007
Page 2

schedule in October 2006 for construction of the Crabbs Branch Way extension to the Casey 6 property identifying essential activities and timeframes for completion of the NEPA documentation, plan development, and permitting submissions/approvals. The schedule indicated a start date of October 2006 with proposed completion of all activities by April 2008. EYA must document and demonstrate that the Crabbs Branch Way extension can be completed to provide unimpeded access to the Casey 6 property without impact while meeting MdTA's deadline. Attached for your reference is the design and construction schedule for the Western Maintenance Facility on Casey 7.

During previous discussions MdTA and EYA have jointly identified critical activities essential to maintaining the construction schedule and timely MdTA facility completion. This letter will serve to outline these points for the Western Maintenance Facility location. The main topics to be evaluated are NEPA coordination and property accessibility. Each point is addressed below in a manner providing background information, decisions reached and potential risks associated with events impacting the Western Maintenance Facility construction and completion dates.

1. NEPA Coordination

Casey 7 was selected for the Western Maintenance Facility following an extensive search of properties along the corridor. During this process coordination meetings were held and County representatives provided input. Casey 7 was identified as satisfying the MdTA's requirements; therefore this site location was included as part of the Final Environmental Impacts Statement (FEIS) for the ICC (dated January 2006). Based on FEIS review and acceptance by FHWA, the Record of Decision was issued on May 29, 2006 designating Casey 7 as the location for the Western Maintenance Facility.

In order to move to any other property not included in the FEIS/ROD including Casey 6, a review of NEPA is required. This will require a re-submission to the FHWA requesting concurrence for a change in the approved location. In order to meet our schedule for the construction of the Western Maintenance Facility and open the ICC on the committed date, the NEPA review will need to be submitted to FHWA for approval by late January 2007 with approvals issued by March 2007.

Mr. Brian Allan Jackson
EYA
January 2, 2007
Page 3

Another key element of the NEPA review involves the Town of Washington Grove which is on the National Register of Historic Places. Coordination with the Town and the Maryland Historic Trust is required to move the Western Maintenance Facility closer to this community. A delay in this coordination will preclude relocation of the Western Maintenance Facility to Casey 6.

2. Property Accessibility

Crabbs Branch Way currently terminates on the east side of I-370 and must be extended to the west side to provide access to Casey 6. Preliminary Plan approval from the Montgomery Planning Board will need to be in place by March 2007 and the necessary federal, state and county permits in place by September 2007. The road extension must be in place one month prior to the start of construction of the Western Maintenance Facility on Casey 6 in order to maintain our building schedule. The projected construction starting date is April 2008 for building on Casey 6.

If any of these interim deadlines are not met for either the NEPA review or the Crabbs Branch Way extension, the MdTA will proceed with building on Casey 7 and discontinue attempts to move to Casey 6.


EYA verbally agreed to perform NEPA and property accessibility components if MdTA would consider their proposal. It is imperative that EYA demonstrate that these parameters can be achieved without impacting our facility construction completion. Absent the NEPA determination MdTA cannot enter any properties outside the established FEIS and designated limits of disturbance to complete essential site engineering. This site engineering work includes topographic survey for grade establishment, metes and bounds for plats and soil borings for building foundations, pavement, and stormwater management analysis. This information is necessary to re-engineer the site grading, erosion and sediment control, and stormwater management plans to obtain required environmental permits. Therefore, the MdTA is requesting that EYA consider performing these engineering tasks on the Casey 6 property concurrently with the NEPA examination. Obtaining this information at the earliest possible date allows our consultant to proceed without significant loss of design efficiency and schedule impacts.

Mr. Brian Allan Jackson
EYA
January 2, 2007
Page 4

As emphasized the Western Maintenance Facility must be opened one year prior to the completion of roadway segment 'A' permitting MdTA sufficient time to staff the facility, coordinate with local law enforcement and fire/rescue operations, and to test/monitor/troubleshoot the new electronic tolling system. This facility will function as the central operations center until the Eastern Operations Center and roadway contract 'E' located in Prince Georges County are completed.

Thank you for your consideration of our proposals. Please provide a written response to these important issues within two (2) weeks of receipt of this letter. If you have any questions or concerns please contact Mr. Dennis Simpson, Deputy Director for Capital Planning, at 410-537-5650 or dsimpson@mdta.state.md.us for clarification.

Sincerely,



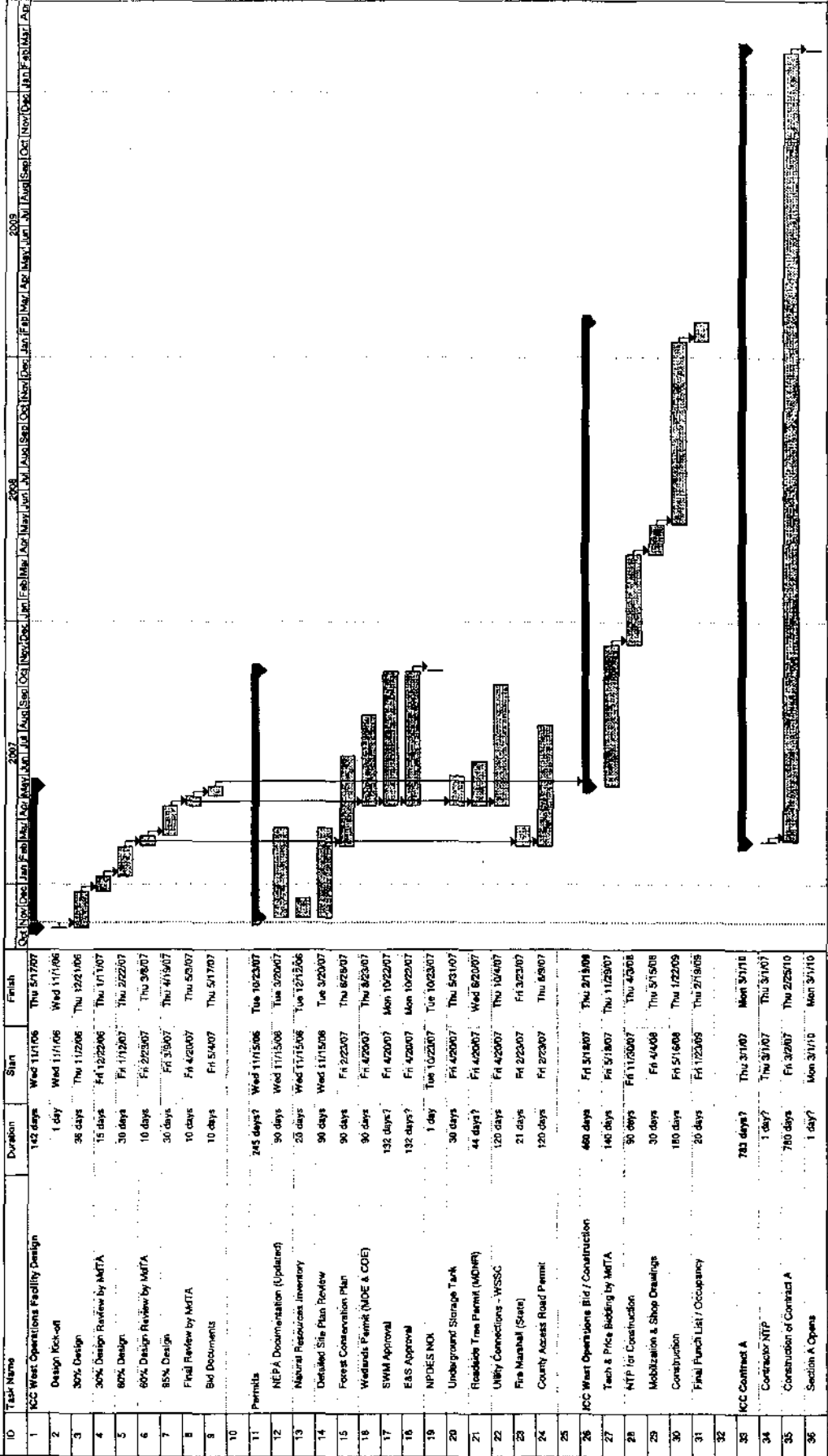
Trent M. Kittleman
Executive Secretary

Attachment

cc: Mr. Neil J. Pedersen, SHA
Ms. Melinda Peters, SHA
Mr. Daniel K. Hardy, MNCPPC
Mr. Joseph Waggoner, MdTA
Mr. Geoffrey V. Kolberg, MdTA
Mr. Dennis N. Simpson, MdTA
Mr. Robert R. Michael, MdTA
File

B-4

ICC Western Facility & Contract A Schedules



| ID | Task Name | Duration | Start | Finish |
|----|---|-----------|--------------|--------------|
| 1 | ICC West Operations Facility Design | 142 days | Wed 1/1/06 | Thu 5/17/07 |
| 2 | Design Kick-off | 1 day | Wed 1/1/06 | Wed 1/1/06 |
| 3 | 30% Design | 36 days | Thu 1/12/06 | Thu 12/21/06 |
| 4 | 30% Design Review by MTA | 15 days | Fri 1/22/06 | Thu 1/17/07 |
| 5 | 60% Design | 30 days | Fri 1/12/07 | Thu 2/22/07 |
| 6 | 60% Design Review by MTA | 16 days | Fri 2/23/07 | Thu 3/6/07 |
| 7 | 85% Design | 30 days | Fri 3/9/07 | Thu 4/19/07 |
| 8 | Final Review by MTA | 10 days | Fri 4/20/07 | Thu 5/8/07 |
| 9 | Bid Documents | 10 days | Fri 5/4/07 | Thu 5/17/07 |
| 10 | | | | |
| 11 | Permits | 245 days? | Wed 1/1/06 | Tue 10/23/07 |
| 12 | NEPA Documentation (Updated) | 90 days | Wed 1/15/06 | Tue 3/20/07 |
| 13 | Natural Resources Inventory | 23 days | Wed 1/15/06 | Tue 12/15/06 |
| 14 | Detailed Site Plan Review | 90 days | Wed 1/15/06 | Tue 3/20/07 |
| 15 | Forest Conservation Plan | 90 days | Fri 2/23/07 | Thu 6/29/07 |
| 16 | Wetlands Permit (MOE & COE) | 90 days | Fri 4/20/07 | Thu 8/23/07 |
| 17 | SWM Approval | 132 days? | Fri 4/20/07 | Mon 10/22/07 |
| 18 | EAS Approval | 132 days? | Fri 4/20/07 | Mon 10/22/07 |
| 19 | NPODES NOI | 1 day | Tue 10/23/07 | Tue 10/23/07 |
| 20 | Underground Storage Tank | 30 days | Fri 4/20/07 | Thu 5/11/07 |
| 21 | Roadside Tree Permit (MDWR) | 44 days? | Fri 4/20/07 | Wed 6/20/07 |
| 22 | Utility Connections - WSSC | 120 days | Fri 4/20/07 | Thu 10/4/07 |
| 23 | Fra Marshal (State) | 21 days | Fri 2/23/07 | Fri 3/23/07 |
| 24 | County Access Road Permit | 120 days | Fri 2/23/07 | Thu 6/9/07 |
| 25 | | | | |
| 26 | ICC West Operations Bldg / Construction | 460 days | Fri 5/18/07 | Thu 2/15/09 |
| 27 | Task 8 Price Bidding by MTA | 140 days | Fri 5/18/07 | Thu 11/23/07 |
| 28 | NTP for Construction | 90 days | Fri 11/30/07 | Thu 4/3/08 |
| 29 | Mobilization & Shop Drawings | 30 days | Fri 4/4/08 | Thu 5/15/08 |
| 30 | Construction | 180 days | Fri 5/16/08 | Thu 1/22/09 |
| 31 | Final Punch List / Occupancy | 20 days | Fri 1/23/09 | Thu 2/19/09 |
| 32 | | | | |
| 33 | ICC Contract A | 783 days? | Thu 3/1/07 | Mon 9/1/10 |
| 34 | Contractor NTP | 1 day? | Thu 3/1/07 | Thu 3/1/07 |
| 35 | Construction of Contract A | 760 days | Fri 3/2/07 | Thu 2/25/10 |
| 36 | Section A Opens | 1 day? | Mon 3/1/10 | Mon 3/1/10 |

Summary External Tasks Deadline
Project Summary External Milestone

Task Milestone
Spk

Project: ICC West Operations Facility
 Date: Wed 1/18/06

B-5

ATTACHMENT C

Process for ICC Water Quality Plan Review in Special Protection Areas

The review process described below responds to the Condition #6 of the ICC mandatory referral.

1. MCDPS to prepare a letter of concurrence that the compilation of studies, meetings, and permit conditions focused on the SPAs during ICC planning, coupled with contract design requirements, meet the intent of the SPA regulation.
2. SHA/MdTA to prepare mandatory referral packages for M-NCPPC review and comment, including documentation of the effects of Environmental Stewardship and Compensatory Mitigation projects in each SPA.
3. The selected D-B team will work collaboratively with SHA/MdTA to prepare stormwater management and erosion and sediment control plans in accordance with contract requirements and MDE review procedures. Those plans will be shared with, and reviewed by, the EMT informally during design. During the informal review process, up to three local interagency staff coordination meetings will be held to confer with MDE, DPS, DEP, and M-NCPPC staff prior to the submission of plans to MDE.
4. At the time of MDE submittal EMT members will send the plans to DPS and M-NCPPC staff for review and comment:
 - a. One set of SWM report and plans per contract (Upper Rock Creek for Contract A, Upper Paint Branch for Contract B)
 - b. Any formal M-NCPPC and DPS staff reviews will be conducted within Design-Build submittal review timeframes and submitted to MDE. Submittal review timeframes shall be negotiated between SHA/MdTA and the successful D-B after award and in the context of SHA's partnering process. M-NCPPC, as a member of the EMT and IAWG, will have the opportunity to comment on D-B plans within the negotiated timeframes and participate in the partnering process.
5. The Planning Board will hold a public hearing on SPA compliance for the ICC after MDE approval of the water quality plans.
 - a. SHA/MdTA will provide support as necessary for an M-NCPPC hearing.
 - b. M-NCPPC staff would make recommendations to the Planning Board concerning imperviousness, mitigation, SPA compliance, and other elements that may include Environmental Stewardship projects that contribute to the watershed.
6. After Planning Board comment on water quality plans:
 - a. M-NCPPC staff would continue collaborative involvement in subsequent design work through EMT.
 - b. If SHA/MdTA or MDE finds alternatives to Planning Board recommendations, SHA/MdTA would coordinate with the EMT to demonstrate how the alternative measures achieve the same water quality protection goals.

ICC Project Status Report #5

ATTACHMENT C (2/6/07 revision)

Process for ICC Water Quality Plan Review in Special Protection Areas

The review process described below responds to the Condition #6 of the ICC mandatory referral.

1. MCDPS to prepare a letter of concurrence that the compilation of studies, meetings, and permit conditions focused on the SPAs during ICC planning, coupled with contract design requirements, meet the intent of the SPA regulation.
2. SHA/MdTA to prepare mandatory referral packages for M-NCPPC review and comment, including documentation of the effects of Environmental Stewardship and Compensatory Mitigation projects in each SPA and other information needed by M-NCPPC to make staff findings referenced below.
3. The selected D-B team will work collaboratively with SHA/MdTA to prepare stormwater management and erosion and sediment control plans in accordance with contract requirements and MDE review procedures. Those plans will be shared with, and reviewed by, the EMT informally during design. During the informal review process, the M-NCPPC representative on the EMT will convene local interagency staff coordination meetings to be held between MDE (invited), DPS, DEP, SHA, and M-NCPPC staff to discuss SPA stormwater management plan issues, imperviousness, forest preservation, and environmental buffer issues.
4. Prior to the time of MDE submittal, M-NCPPC's EMT member will send the draft plans to DPS and M-NCPPC staff for review and comment:
 - a. One set of Draft SWM report and plans per contract (Upper Rock Creek for Contract A, Upper Paint Branch for Contract B).
 - b. M-NCPPC staff to arrange a Planning Board Public Hearing on SPA compliance for the ICC after local agency coordination regarding the water quality plans and prior to or concurrent with SHA submittal to MDE.
 - i. SHA/MdTA will provide support as necessary for an M-NCPPC hearing.
 - ii. M-NCPPC staff would make recommendations to the Planning Board concerning imperviousness, mitigation, SPA compliance, and other elements that may include Environmental Stewardship projects that contribute to the watershed.
 - c. Receive, consider and incorporate as desired comments from Board Public Hearing into consolidated M-NCPPC comments and submit to SHA for review and consideration.
5. Conduct all formal M-NCPPC and DPS staff reviews within Design-Build submittal review timeframes and submit comments to SHA and MDE. Submittal review timeframes shall be negotiated between SHA/MdTA and the successful D-B after award and in the context of SHA's partnering process. M-NCPPC, as a member of the EMT and IAWG, will have the opportunity to comment to SHA on D-B plans within the negotiated timeframes and participate in the partnering process.

6. Subsequent to Planning Board comment on water quality plans:
 - a. M-NCPPC staff would continue collaborative involvement in subsequent design work through EMT.
 - b. If SHA/MdTA or MDE finds alternatives to Planning Board recommendations, SHA/MdTA would coordinate with the M-NCPPC representative on EMT.



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

January 3, 2007

Mr. David G. Dummire, Vice President
Eyes of Paint Branch
1258 Cavendish Drive
Silver Spring, Maryland 20905

Dear Mr. Dummire:

Thank you for sending me a copy of your letter to County Council President Prather regarding the Upper Paint Branch Special Protection Area (SPA) regulations in relation to the Intercounty Connector (ICC) project. Your concerns about water quality protection are acknowledged. My understanding is that the Maryland State Highway Administration's intent is to achieve the outcome of water quality protection in the SPA that is equal to that of what the SPA regulations would require, without actually going through the formal SPA process. I believe this is a workable approach, and support it.

Therefore, I will direct the two Montgomery County Executive branch departments, Permitting Services and Environmental Protection, which have roles under the SPA program to work with the State to achieve the water quality outcomes envisioned in the SPA regulations, within the framework established by the ICC Record of Decision (ROD). This involves working with the State to ensure adherence to the several ICC ROD commitments pertaining to the SPA. I believe this outcomes-based approach will result in the watershed protection which your organization seeks, while at the same time allowing the State to implement the project without the uncertainty that the formal SPA review process would impose on its schedule.

Again, thank you for sharing your concerns with me. Your efforts to improve the natural environment and create a higher quality of life in Montgomery County are greatly appreciated.

Sincerely,

Isiah Leggett
County Executive