



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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David K. Paylor
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January 20, 2009

The Honorable Janet D. Howell
Senate of Virginia
P.O. Box 2608
Reston, Virginia 20195

The Honorable Kenneth R. Plum
Member, Virginia House of Delegates
2073 Cobblestone Lane
Reston, Virginia 20191

Dear Senator Howell and Mr. Plum:

Thank you for your letter to Joe Maroon and me with your questions regarding the street restoration project being undertaken by the Reston Association.

This project, which is known as the Northern Virginia Stream Restoration Bank (or "Reston Stream Bank"), is actually an approved stream mitigation bank under which the banker provides compensation in advance of permitted impacts. Applicants for state and federal wetland/stream permits can purchase credits from these approved mitigation banks when the permitting agencies agree that the approved bank provides ecologically acceptable compensation for the proposed impact. Proposals for such banks are reviewed by an Interagency Review Team (IRT), which is chaired by the U.S. Army Corps of Engineers-Norfolk District. The Department of Environmental Quality serves as a co-signatory to the banking agreements, and the U.S. EPA - Region III, the U.S. Fish & Wildlife Service-Virginia Field Office, and often the Virginia Department of Game and Inland Fisheries participate.

You asked if the project is being conducted within appropriate federal and state laws and regulations, and with the necessary permits; the answer is yes. The Reston Stream Bank, sponsored by a private group of developers and consultants who obtained easements from the Reston Association and private property owners, was approved through the review team process under the 1995 federal mitigation bank guidelines (these guidelines have since been

replaced by the federal mitigation rule in 2008). The guidelines required a detailed process for approval that included a prospectus from the bank sponsor, field reviews by the participating agencies, a public notice by the Corps, preparation of a mitigation banking instrument, review of conceptual plans for the project, and a review of detailed final plans for each phase of the project. The MBI is an agreement between the parties that describes in detail the legal, financial and technical components of the bank; how the bank will be established, constructed and operated; and how the bank will be maintained and monitored in the future to determine its success. The sponsor of the Reston Stream Bank followed all of the state and federal requirements for the approval process. I also understand that the bank sponsors have obtained all the necessary permits for construction as each phase is undertaken and are complying with these permits.

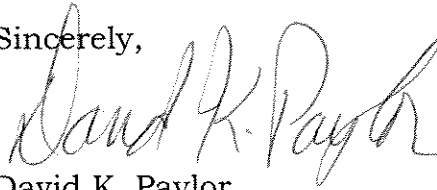
You also asked if the project is following best management practices and the latest scientific and engineering principles. Again, the answer is yes. The purpose of the Reston Stream Bank is to provide mitigation credits by correcting stream instability and stream bank erosion, and reducing sedimentation in the middle Potomac River watershed. First, the sponsor identified the causes of these problems, and then developed a plan to correct them, using the most advanced stream restoration techniques available, as confirmed by experienced practitioners, environmental groups and state and federal agency review. Although there are different ways to correct erosion and sedimentation problems depending on their source and location, the agencies believe that the sponsor has taken the appropriate actions that will correct these problems and result in improved habitat and water quality. The bank sponsor has taken particular care to minimize temporary construction impacts, such as using smaller equipment and carefully field surveying large trees and avoiding their removal for construction access when at all possible. In addition, it is my understanding that they are employing effective best management practices to address construction storm water and have received favorable inspection reports from the Department of Conservation and Recreation, which is monitoring the project along with DEQ.

Finally, you ask if there are other methodologies and techniques available that would accomplish the same purpose and how they rank compared to the chosen approach. Several engineering methods could be employed to correct the erosion and sedimentation problem within the stream network of this area. For instance, the surrounding area could be retrofitted with additional storm water management controls, such as a series of storm water ponds throughout the watershed, to reduce runoff. The stream banks could be armored with riprap to decrease further erosion. However, such methods, often used in the past, have been found to be ineffective and have greater environmental impacts. We believe that the sponsor has chosen a method that is practical for the urban environment and will not only reduce the existing erosion and sedimentation problems but will also provide long-term stability to the stream network. We agree that projects of this type are not aesthetically pleasing during construction and for the first few years after

construction, but they will, over time, solve water quality problems, become visually pleasing as the trees and vegetation return to the stream banks, and provide improved habitat.

In summary, we believe that the sponsor of the Reston Stream Bank has complied with all appropriate requirements, has used the most innovative and effective options to improve water quality and reduce erosion and sedimentation problems in the watershed, and has used appropriate design and construction methods to minimize further environmental impacts while achieving the project purpose. Thank you for your inquiry and please feel free to contact DEQ's Water Quality Division Director, Ellen Gilinsky, at 804 698-4375, or egilinsky@deq.virginia.gov, or me with further questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "David K. Paylor".

David K. Paylor

c: Mr. Joseph H. Maroon
Ms. Angie Jenkins - DEQ
Ellen Gilinsky, Ph.D. - DEQ

DKP:dlm