SUMMARY OF THE COX CREEK
CITIZENS OVERSIGHT COMMITTEE MEETING
April 10, 2024 - 5:30 PM
Cox Creek Operations and Maintenance Complex
1000 Kembo Road, Curtis Bay, MD 21226 - Hybrid Meeting

Attendees:

Anne Arundel Community College Environmental Center (AACC EC): Tammy Domanski
Anne Arundel County Department of Public Works (DPW): Melissa Harlinski
Anne Arundel Patapsco Waterways Citizens Environmental Advocacy Coalition: Carl Treff
Citizens Advisory Committee (CAC) Chairman: Adam Lindquist
Cox Creek Citizens Oversight Committee (COC) Facilitator: Angie Ashley
District 31: Delegate Brian Chisholm
EA Engineering, Science, and Technology (EA): Cynthia Cheatwood, Peggy Derrick
Maryland Port Administration (MPA): Danielle Fisher, Katrina Jones, Holly Miller, Amanda Peñafiel, Joseph Ross
Maryland Environmental Service (MES): Dallas Henson, Mackenzie Miller, Robert Natarian
Pasadena Sportfishing Group: Robert Christy
Resident: Chuck Thompson
Resident of Legislative District 31: Gary Gakenheimer, Committee Chairman
Riviera Beach Community: Amy Beall, Dawn Hagerty, Willet (Skip) Hagerty
Rock Creek Community: Greg Sliviak, Ruth Sliviak
Rockview Beach Community: Bev Soucy, Mike Soucy
Scenic Rivers Land Trust (SRLT): Erin Valentine
Stoney Beach Community: John Garofolo
The Terrapin Institute: Marguerite Whilden

Action Items:

- MPA will investigate the inclusion of Blue Water Baltimore in the Bay Enhancement Working Group (BEWG) Confined Aquatic Disposal (CAD) Sub-Committee.
- MPA will outline the Cox Creek COC's roles, responsibilities, powers, and procedures at the next meeting to provide participants with a clearer understanding.
- MPA will coordinate with Councilman Nathan Volke regarding potential partnerships related to the SCNT.
- MPA will coordinate with Ms. Sliviak to provide data from the MPA Screening Database.

1.0 Welcome, Roll Call & Introductory Comments — **Angie Ashley, Facilitator**
Gary Gakenheimer, Chair

Ms. Ashley convened the meeting, requesting attendees introduce themselves. Noting that the paused CAD pilot project is not on the agenda, Ms. Ashley encouraged those interested in CAD to attend the upcoming CAC meeting on May 8, 2024, and visit the DMMP website to sign up for more information. Mr. Gakenheimer initiated a moment of silence for those impacted by the collapse of the Key Bridge, urged attendees to remember the families suffering irreplaceable losses and expressed gratitude to first responders and support personnel for their efforts in ensuring public safety, protecting the environment, and facilitating the investigation.

2.0 Announcements — **Holly Miller, MPA**

Ms. Miller provided an update on the Key Bridge collapse and expressed appreciation for the public's patience as the Port of Baltimore (POB) continues to work through an unimaginable situation. Governor Moore is leading a collaborative effort involving state, city, and national officials to recover the lost individuals, investigate the collision's cause, and clear the debris to reopen the vital shipping channel. MPA Executive Director Jonathan Daniels is spearheading MPA's efforts in close coordination with various partners. The U.S. Army Corps of Engineers (USACE) recently announced plans to open a limited access channel by the end of April 2024 to facilitate essential barge container service. The goal is to restore normal POB access by the end of May. For ongoing updates on the coordinated response efforts, attendees were directed to visit the Key Bridge Response 2024 website maintained by the Unified Command to provide public information on the incident's status and response activities. Delegate Chisholm requested that attendees reach out if in need of assistance or support or have unanswered questions. Additionally, he recognized that security in the waterfront communities of District 31 is an ongoing challenge, and if there is excessive trespassing, to contact local legislators' offices.

Ms. Miller discussed the legislation introduced this session to amend the composition and responsibilities of the Cox Creek COC to help replace obsolete members and modernize responsibilities. MPA supported this legislation with amendments as an active Cox Creek COC, is a critical component of the DMMP. Additionally, MPA was made aware of an amendment added to the bill that would reopen Hart-Miller Island (HMI) to accept dredged material from Baltimore County projects and large-scale projects such as Trade Point Atlantic (TPA), which has passed both chambers. Ms. Miller emphasized that MPA was not involved in or consulted regarding the amendment. MPA supports TPA in creating a container terminal, helping boost Maryland's economy and generating local jobs, however MPA has concerns about the amendment as it relates to the DMMP as it did not include stakeholder engagement. As a result, MPA is reviewing implications internally. Mr. Garofolo inquired about changes in the bill's language, which originally called out the Riviera Beach and Stoney Beach communities as those to be included in the Cox Creek COC membership but was later revised to more general language referencing community members of Northern Anne Arundel County. Delegate Chisholm shared that additional coordination with delegation members would be required to determine the root of the language change.

Ms. Miller discussed the legislation to introduce a CAD taskforce. MPA coordinated closely with legislative representatives and supported the bill with amendments. Despite support for the bill, it did not pass both chambers, however, MPA remains committed to dedicating the necessary resources and funding to implement the intent of the proposed taskforce through the BEWG to ensure that there is a public participation process. The group will be open to the public and legislative representatives. Mr. Garofolo requested that Blue Water Baltimore be included in the BEWG and inquired which DMMP committee will focus on CAD moving forward. Ms. Ashley shared that Blue Water Baltimore is also represented on the CAC. Ms. Miller added that updates regarding CAD will be provided through the CAC, the next meeting of which is May 8, 2024.

Ms. Whilden inquired about membership, function, and resolution of issues of DMMP committees. Ms. Miller explained that regarding the Cox Creek COC, the Governor appoints the members, which currently occurs every two years. All active members of DMMP committees including the Cox Creek COC can be viewed on the Maryland DMMP Website. Any issues or topics requiring dialog are discussed and addressed by the committee during meetings. Mr. Garofolo requested that the Committee's roles, responsibilities, powers, and procedures be reviewed in the next Cox Creek COC meeting to provide participants with a clearer understanding. Ms. Miller agreed that the request could

be addressed at the next Cox Creek COC meeting.

3.0 Cox Creek Expanded Updates **Amanda Peñafiel, MPA**
Joseph Ross, MPA

Construction Update

Ms. Peñafiel provided an update on the Cox Creek Dredged Material Containment Facility (DMCF) expansion project. The upland demolition of the site began in 2015 and was completed in 2020. Twenty-six industrial buildings were demolished and approximately 124,000 tons of material were recycled. After upland remediation, 100 percent of asphalt, 88 percent of steel, and 77 percent of concrete were recycled as part of the demolition activities.

Following the demolition, base dike widening (BDW) was conducted in preparation for future dike raising. BDW construction began in September 2018 and was completed in late 2020. Approximately 619,000 compacted cubic yards (ccy) of clay material was required for the BDW construction. The base dike served as a foundation for the +60' mean lower low water (MLLW) dike raising. The +60' MLLW dike raising construction contract began in August 2021. The waterside dike raising began in February 2022 and was substantially completed in August 2022. Additionally, the upland dike construction began in September 2022 and was completed in June 2023. The major construction related to the project was completed in June 2023, seven months ahead of schedule, and the team is concluding final 'punch list' efforts related to the dike raising construction. Approximately 1.8 million ccy of fill material has been excavated from the borrow area in the upland and used in the dike raising construction. The final major effort involved in the expansion of the Cox Creek DMCF is the north-south cross dike raising, constructed initially between October 2021 and April 2022 dividing the waterside dike and the upland dike. This allowed for the site to accept material throughout the construction of the +60' MLLW dike raising without inundating the upland DMCF. To maintain the north-south cross dike, it was raised an additional six feet to allow flexibility in accommodating future inflows. This work began in September 2023 and was completed in October 2023. Mr. Garofolo inquired about the source of material used for the +60' MLLW dike raising. Ms. Peñafiel responded that all the material for the +60' MLLW dike raising was taken from the borrow area in the upland property. Ms. Miller added that using material from the borrow area minimizes impacts since the material is already onsite.

Ms. Peñafiel stated that the expansion into the upland area, along with a +60' MLLW dike raising, will provide a cumulative capacity of approximately 14.7 million cubic yards (mcy) at the Cox Creek DMCF. The final capacity associated with increasing the dike to a final height of +80' MLLW could range from 17.3 to 21 mcy. The capacity will be refined as the design progresses. Mr. Garofolo asked if there was a timeline for each phase of dike raising. Ms. Miller stated that the +60' MLLW is substantially complete, but the Maryland Department of Environment (MDE) must approve before the capacity is considered available. Mr. Sliviak inquired about the capacity that is utilized on the site. Ms. Miller shared that, in reference to the 14.7 mcy of capacity, approximately 4.5 mcy of material has been placed using approximately one-third of the site's capacity.

Ms. Peñafiel stated that the +80' MLLW dike raising is necessary to meet the twenty-year dredged material management plan. In response to a question from Mr. Garofolo regarding the timing of reaching site capacity limits, Ms. Miller explained that if innovative reuse (IR) can increase productivity and reclaim capacity from the Cox Creek DMCF on an ongoing basis the site may never reach final capacity. Mr. Garofolo inquired about additional material coming to the Cox Creek DMCF due to the Francis Scott Key Bridge incident to which Ms. Miller responded a definite

placement location has not been set for the material. The material is undergoing testing to determine applicability to MPA sites.

Mr. Thompson asked about the amount of force the dikes can withstand prior to any breakage and release of material. Ms. Peñafiel responded that MPA does not anticipate any forces that would cause dike failure and release of material. Cox Creek DMCF and Masonville DMCF have Dam Safety permits, which require an engineer, geotechnical sampling, ongoing monitoring and maintenance, post rain inspections and an emergency action plan. Ms. Miller elaborated that during the site's design, modeling was conducted in conjunction with MDE Dam Safety that included items such as breach analysis to understand any potential for impacts. Once MDE accepts the construction, an annual report is required. Ms. Sliviak asked if the emergency action plan and the annual reports were available to the public. Ms. Peñafiel stated there are currently no annual reports since the construction is not complete. Ms. Miller said that the emergency action plan and annual report could be shared at future Cox Creek COC meetings once available. Ms. Beall asked about the reporting timeline once inspections are completed. Ms. Miller stated that typically reports are due to MDE by December 31 for that year and are considered final once submitted to MDE. Mr. Garofolo asked if the dike will still be considered a dam once the water is gone after the facility is full. Ms. Miller replied that, unless MDE updates the designation, the dike will be considered a dam indefinitely.

Mitigation Projects

Ms. Peñafiel provided an update on the Genesee Valley Outdoor Learning Center (Genesee Valley) mitigation project associated with the Cox Creek DMCF expansion. The MDE Wetlands and Waterways certification for the mitigation project was received in September 2022. For the project to proceed, MPA needs an additional permit from MDE Sediment and Stormwater Plan Review, of which coordination is ongoing. MDE provided comments on the 100% design and revisions are underway with resubmission to MDE for review anticipated in May 2024. The project also requires an approved Forest Conservation Plan from the Maryland Department of Natural Resources (DNR). MPA is awaiting approval of the revised Forest Conservation Plan which was submitted to DNR in March 2024. Additionally, a Conservation Easement is required from the USACE but requires the MDE Sediment and Stormwater Plan Review Permit prior to finalization. Maryland Board of Public Works (BPW) approval will be required for the easement. Pending approvals, construction at Genesee Valley is targeted to begin late 2024.

Community Enhancements

Ms. Peñafiel stated the Cox Creek COC finalized the list of community enhancements in April 2019. Six of the eleven community enhancements are either ongoing, completed, or no longer an option. Once the Swan Creek Nature Trail (SCNT) and mitigation are completed, funds will be reassessed to determine if any funds will be available to proceed with any of the other community enhancements.

Swan Creek Nature Trail

Mr. Ross stated that the SCNT is a community enhancement project originally recommended by the Cox Creek COC. Once complete, the SCNT will make an approximately two-mile loop through the Cox Creek Forested Conservation Easement Area, including three boardwalks and one pedestrian bridge. The pedestrian bridge will be placed over a pre-existing rock-lined, stormwater drainage swale. In addition, the SCNT will have a natural surface and include four outdoor classrooms with specific educational themes created with the natural environment in mind. Visitors of the SCNT will

sign in and out at the trailhead kiosk. Currently, 90% design plans are expected in early summer 2024 and final plans in late summer 2024. Construction is anticipated to begin in late 2024 once environmental coordination and permitting approvals are complete with the SCNT opening in 2025.

Mr. Garofolo inquired about the trailhead location and trail maintenance. Mr. Ross stated that the trailhead will be located adjacent to the Cox Creek Operations and Maintenance Complex. Additionally, maintenance including that of any materials will be a part of MPA's long term plan. Mr. Garofolo asked if collaboration with Anne Arundel County (AACo) has been considered to aid in facilitating access to the trail and recommended coordination with Councilman Nathan Volke regarding potential partnerships related to the SCNT. Ms. Peñafiel stated that a pilot is planned to help determine trail hours. This pilot study would help assist MPA in understanding if help is needed to maintain access to the trail.

4.0 Dredged Material Placement Screening **Peggy Derrick, EA**

Ms. Derrick, Vice President at EA Engineering, Science and Technology with over twenty-seven years of experience in environmental assessments, provided an overview of the MPA screening processes for accepting material into Baltimore Harbor DMCFs. Ms. Derrick stated that sediment quality information is essential for managing the MPA Baltimore Harbor DMCFs. Material comes from numerous sources such as federally maintained channels; state-maintained channels and berths; and privately maintained channels and berths. An average of approximately 600,000 cubic yards (cy) of sediment comes from federally maintained channels annually to the Baltimore Harbor DMCFs. Federally maintained channel material accounts for approximately 80% of the material that is placed in the DMCFs, while the other 20% comes from state and privately maintained channels and berths. The federally maintained channels are maintained to -50' MLLW and are dredged every three to four years. Additionally, the Baltimore Harbor federal channels have historical data dating back to 1995 from USACE. MPA has a database which keeps records of the material that has been placed into the facilities since the 1990s. Ms. Sliviak asked if the database is available for public access. Ms. Miller responded that the data is not on the DMMP website but could be provided.

Ms. Derrick explained the difference between mechanical and hydraulic dredging. Mechanical dredging uses equipment such as a clam shell bucket to collect material and place it in a barge. Hydraulic dredging uses suction mechanisms to pull a mixture of sediment and water from the water bottom. Most dredged material that is placed at the Masonville and Cox Creek DMCFs is mechanically dredged and hydraulically offloaded. This means the material is turned into a slurry, a water and material mixture, and pumped into the DMCFs.

Ms. Derrick outlined the required Right of Entry (ROE) application process to place material into an MPA DMCF. The first step in the ROE application process is to submit a letter to MPA indicating interest in placement. The next step includes the preparation and submission of the application, a sampling and analysis plan (SAP), material test results, copies of applicable permits, and an operations plan detailing how material will be placed at the facility. As a part of the ROE application process, projects must be identified as new work or maintenance dredging. Due to capacity limitations, MPA currently only accepts maintenance dredging projects into facilities. The SAP should dictate sampling locations and depths; sample collection and compositing methods; and analytical methods and must be approved by MPA prior to sampling. MPA requires a minimum of two composite samples to be tested consisting of material from three locations each. The final step

in the process requires the submission of pre- and post-dredging hydrographic surveys. These are underwater surveys that are used to calculate material volumes. On average, MPA receives between two and three private applicants per year, with an application approval time of three to six months. This timeline is only applicable to the application approval process, does not include permitting, and can be extended based on the completeness of the application.

Dredged material is classified by physical or chemical testing. Physical testing includes grain size; Atterberg limits, which is related to the materials ability to shrink; specific gravity which is related to water displacement by the sediments; and moisture content. Most sediment from the Baltimore Harbor is 80% water and 20% solids which can lead to special requirements in the laboratory as the material is neither water nor solid. Chemical testing includes metals, volatile organic compounds (VOCs), polychlorinated biphenyl (PCB) congeners, pesticides, polycyclic aromatic hydrocarbons (PAHs), semi-volatile organic compounds (SVOCs), total petroleum hydrocarbons (TPH), nutrients, pH, total organic carbon, ammonia, cyanide, sulfide, tributyltin, and Toxicity Characteristic Leaching Procedure (TCLP). The TCLP procedure is used to determine if the material is classified as hazardous or nonhazardous. If the material does not pass the TCLP, it cannot be accepted at an MPA site.

In advance of DMCF placement, MPA conducts a data screening process which evaluates all physical and chemical properties of the material. These data provide a record of material placed in each site, verifies that the material is not hazardous, identifies materials with chemical concentrations that may be different from previously placed materials, assists with early identification of materials suitable or not suitable for future innovative reuse, and facilitates effluent and discharge management to meet permit limits and requirements. The MPA data screening includes a comparison of chemical concentrations to regulatory limits (specifically TCLP regulatory limits), and the comparison of the chemical concentrations to a numeric value or concentration that is representative of the material already within the facility. The baseline control limits (BCL) are statistically derived numbers using historical data and represent an upper concentration for each chemical constituent for which 95% of concentrations would be expected to fall below. If the result/chemical concentration for a specific chemical is higher than the BCL, the analyte concentration is considered dissimilar to the current material that has been placed in the DMCF.

Ms. Derrick reviewed a flow chart detailing the MPA screening process. First, TCLP results are reviewed. If the material exceeds the TCLP, it cannot go into an MPA DMCF. If the material meets TCLP requirements, then all the other data are compared to the BCLs. If laboratory results are less than or equal to the BCLs, then the material is acceptable for placement at a MPA DMCF. If the data exceeds the BCLs, the exceedances are investigated. If concentrations for a large number of analytes exceed the BCLs, MPA may reject the material. Mr. Garofolo asked what occurs if there are significant outliers. Ms. Derrick stated that outliers are evaluated on a case-by-case basis to determine if the material should be accepted, rejected or whether specialized management is needed.

Ms. Derrick outlined the differences in screening criteria. MPA DMCF screening criteria is used to determine acceptance at MPA DMCFs and for management of MPA facilities. MDE Fill Material and Soil Criteria screening is used to categorize material based on allowable IR or beneficial use (BU) of the material. It is important to remember these two screenings are different. Mr. Garofolo

asked what screening would be used for CAD. Ms. Derrick responded that the MDE screening would be used for CAD because it is BU, as opposed to DMCF placement. For the MDE screening, there are four categories of material. It was emphasized that category one through three of the MDE screening criteria are the types of material that also typically pass the MPA screening and are acceptable for DMCF placement.

Mr. Garofolo inquired about the qualifications to develop an SAP associated with the MPA ROE. Ms. Derrick responded that there is no certification required to develop these plans, but there are guidance documents from the Environmental Protection Agency (EPA) and other agencies that are used to set the requirements. Ms. Harlinski highlighted that an MDE permit is required to sample the location and asked if the ROE was applicable to AACo to which Ms. Miller replied in the affirmative. Ms. Beall asked if the process is utilized for each dredging event and Ms. Miller responded in the affirmative and added that the ROE application outlines the amount of material, timeline for dredging, and other specifics of the dredging project. Mr. Garofolo asked for clarification on whether the ROE process also includes dredging permissions. Ms. Derrick stated that dredging permits must be obtained separately from the ROE but there are links in the ROE to the needed resources.

Mr. Garofolo asked if sediment must be desiccated prior to laboratory testing. Ms. Derrick replied stating that this is sometimes necessary, but typically the lab will extract a larger volume of material to account for the moisture content and ensure proper detection limits are met. Detection limits are important to the ROE application process. Mr. Garofolo asked if the TCLP test examines the movement of contaminates in the material. Ms. Derrick responded that the TCLP was initially designed for sanitary landfills, therefore it is a leaching test. Ms. Treff inquired about the destination of material which does not pass the TCLP test. Ms. Derrick responded that the material is placed in a hazardous waste facility. Mr. Garofolo asked about the uncertainty of measurements in relation to the BCL. Ms. Derrick responded that some variability is controlled by the composite samples. Ms. Whilden asked how many ROE applications have been issued to date and how many are anticipated. Ms. Derrick reminded everyone that 20% of material that goes into the DMCF is from State and private entities, which are required to complete the ROE application.

Ms. Domanski thanked Ms. Derrick for the clear explanation of the testing and asked if MDE uses a similar flow chart for their decision making compared to the MPA flow chart. Additionally, Ms. Domanski asked if the 1992 publication on TCLP is the most up to date and if it will be updated with Per- and Polyfluorinated Substances (PFAS). Ms. Cheatwood stated PFAS would likely not be connected with TCLP. Currently, only drinking water limits are available for PFAS. Eventually, there will be limits based upon human or animal toxicity. The MDE Innovative Reuse and Beneficial Use Guidance Document does contain flow charts for the existing screening criteria.

Mr. Thompson asked if there was a graph of annual trends based on sediment data. Ms. Derrick stated that this had been previously investigated but additional data are needed to address this question. Ms. Whilden inquired about the types of sediment accepted at MPA-owned facilities, the processes to accept the material, and if legislation could aid MPA in reducing processes in accepting material. Ms. Miller responded that the material placed at MPA-owned sites must be related to maritime commerce for the POB. Within the POB, there are Federal channels managed by USACE as well as state and private channels which all have dredging needs. MPA assesses and projects

dredging needs for these entities based on past trends to ensure there is a rolling twenty-year period of capacity. The MPA screening and ROE process is a key component of DMCF management as it provides necessary information on sediment quality. Mr. Garofolo concurred with the importance of the MPA screening process.

5.0 Roundtable Remarks and Open Discussion **All Members**

Mr. Garofolo stated that the briefing on the dredged material screening process was extremely helpful and thanked MPA for listening to community requests. Mr. Garofolo stated interest in a similar briefing from MDE to address how categorization is determined for the material and how it translates to waterborne use. Ms. Domanski reiterated the need for MDE information in relation to IR.

The members of the community and other attendees thanked MPA for their time and the well put together information on the dredged material screening process. Ms. Peñafiel stated that the dredged material screening process presentation is the first of a three-part series of presentations. Ms. Derrick's presentation explained the testing done prior to receiving the material, the next presentation will detail facility operations and discharge permits, and the third presentation will review exterior monitoring, which is a voluntary program MPA funds to determine if there are impacts associated with the operation of the site using sediments, benthics and water quality outside of the DMCF.

6.0 Upcoming Meeting and Adjournment **Angie Ashley, Facilitator**

Ms. Ashley stated that the 2024 Cox Creek COC meeting dates are July 10 and October 9, 2024. Attendees were encouraged to attend the 2024 Cox Creek Open House, which will be held on Saturday, October 19, 2024.