



Wes Moore, Governor
Aruna Miller, Lt. Governor
Josh Kurtz, Secretary
David Goshorn, Deputy Secretary

Aug. 18, 2023

Mr. Jay Moyer
Garrett County Engineering Department
Public Service Center
2008 Maryland Hwy., Suite 3
Mt. Lake Park, MD 21550

**Re: Swallow Falls Bridge Replacement - Scenic and Wild Rivers Exception Application
2018DNR139 (FMIS# GA415B21)**

Dear Mr. Moyer:

Thank you for your continued cooperation and assistance as the Department of Natural Resources (the Department) reviewed the Garrett County Engineering Department's (the County's) application for an exception to the strict application of the provisions of §8-401 through §8-411 of the Natural Resources Article of the Annotated Code of Maryland and the regulatory provisions of COMAR 08.15.01 – 08.15.04, regarding the protection and conservation of the Youghiogheny Scenic and Wild River Corridor. The exception request is necessary to allow for the replacement of the Swallow Falls Bridge. In accordance with the regulations, the Department has carefully reviewed the County's application and supporting documentation, including an alternatives analysis; held a public hearing in Garrett County to receive public comments; reviewed other comments received by the Department; and discussed the application with the Department's natural resource professionals.

As described in the County's application, this project involves the construction of a new bridge on an offset alignment in the area of the existing bridge. After giving thorough and thoughtful consideration of the river as a scenic and wild resource, and as described in detail below, the Department is conditionally granting the County's exception request.

In accordance with COMAR 08.15.03.03A, the Department has determined that the County has satisfactorily demonstrated that:

- (1) The exception is consistent with the legislative intent of the Scenic and Wild Rivers Act and, is not injurious to the scenic and wild character of the river ; and
- (2) Special circumstances described by the applicant affect the project so that strict application would cause unnecessary hardship.

The Department's decision is supported by the following considerations. First, while the project will have an impact on the area immediately surrounding the bridge, the impacts will be limited to only those that are the minimum necessary, and the design of the bridge will allow for the removal of the central pier structure from the middle of the river. Second, the scenic and wild

character of the river and corridor as a whole will not be injuriously impacted by the construction of the new bridge in an offset alignment. Third, the need to maintain traffic flow through the area for safety and emergency access are special circumstances which are necessary for community health, safety, and welfare. Strict application of the regulations would cause an unnecessary hardship to the County, the community, and the general public that use the roadway. Finally, impacts to the old growth hemlock forest (Youghioghenny Grove Natural Area) of Swallow Falls State Park¹ will be offset by the conservation and mitigation conditions provided below.

Therefore, given the above reasons, the Department approves the County's request for an exception with the following conditions:

1. The width of the new bridge shall be limited to no more than 28-feet to include the minimum two 10-foot-wide travel lanes, and two 4-foot-wide shoulders. The roadway "taper" to connect to the bridge shall be the minimum necessary to establish a safe and smooth transition to the bridge.
2. The County's final plans shall include measures to minimize tree clearing, and to the extent practicable conserve specimen trees, and protect and conserve all healthy hemlock and white pine trees with the potential to become specimen trees within 15 years. Measures may include, but are not limited to, root pruning, small retaining walls, aeration, and fertilization. These trees shall be flagged and protected during construction with fencing and other appropriate measures to minimize compaction of the critical root zone or expose roots.
3. The County shall confine equipment parking, construction staging, and material storage to existing cleared areas. Clearing and grading for these activities is prohibited.
4. The County shall ensure that the project includes reforestation of native species equivalent to the area of forest cleared for the project. The forest shall be planted on the project site to the extent practicable, and on other State-owned land, if the area available for planting at the project site is not sufficient.
5. The County shall develop, implement, and fund a 15-year Forest Conservation and Management Plan for the affected area, to include the entire Limits of Disturbance, in order to optimize the long-term health and sustainability of the affected old growth forest. Implementation of the Plan may include, but is not limited to, assessment and treatment for Hemlock Woolly Adelgid and other pests and diseases; monitoring and control of invasive species; and pruning, thinning, and deadwood removal as necessary to promote the health of the old growth forest ecosystem.
6. The County shall continue to coordinate with the Department on the project through final design and construction to ensure compliance with these conditions, confirm the requirements of Section 4(f) of the U.S. Department of Transportation Act of 1966 regarding impacts to public lands are met, and address the Department's requirements and recommendations for the construction of the project on State-owned land, including any approval necessary by the Maryland Board of Public Works.

¹ The old growth hemlock forest of Swallow Falls State Park is proposed to be designated as an Irreplaceable Natural Area. Although the designation has not yet been finalized, the Department has nevertheless determined that this bridge replacement project is the continuation of an existing use and will not have a detrimental impact on the habitats or natural resources for which this area is to be designated as an Irreplaceable Natural Area.

The Department looks forward to the County's continued cooperation regarding the development of the final construction drawings and specifications and full compliance with the conditions of approval. If you have any questions, please feel free to contact Mary Owens at (410) 507-4946 or at Mary.Owens@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Kurtz". The signature is stylized and cursive.

Josh Kurtz
Secretary

cc: Daryl Anthony
Angie Crenshaw
Roger Medoff
Sarah Milbourne
Roy Musselwhite
Donnie Oates
Perry Otwell
Mary Owens
Paul Peditto
Tony Redman