



January 15, 2019

Paul Holt, Director
Community Development/Planning
James City County
PO Box 8784
Williamsburg, VA 23185

Subject: Notice of proposed acquisition of land within Agricultural and Forestal District (AFD) 1-02-1-2018 in James City County, Ordinance No, 197A-5, Parcel No. 5820100002

Dear Mr. Holt:

This letter provides additional information requested as a result of the meeting with HRSD staff on Friday, January 11, 2019. We appreciate the opportunity to discuss this proposed action with you and your staff and remain available to address other questions or provide additional information as needed. We also appreciate the clarification and correction of the scrivener's error in the ordinance and understand the entire parcel is within the AFD, not just the 6.1 acres referred to in the printed ordinance and referenced in our original notification. The references to the 6.1 acres have been struck through in our original notification language.

This additional information is focused on this specific notification and the statutory elements to be addressed with our notification to assist James City County in making a determination as to whether this proposed action is necessary to provide service to the public in the most economic and practical manner and will not have an unreasonably adverse effect upon state or local policy.

Some context may be helpful before addressing your specific request. HRSD acquired the land for the Williamsburg Treatment Plant in 1971 to meet the wastewater treatment needs of a growing Williamsburg/James City County population and support the development of a brewery in James City County. HRSD provides a vital public service to the residents of James City County, treating their wastewater to exacting standards, protecting public health and the water quality of the James River and the Chesapeake Bay. The HRSD parcel has been in continuous use as a wastewater treatment plant for more than 40 years immediately adjacent (actually totally surrounded) to the AFD, which was established after HRSD began operations. There have been no concerns relayed to HRSD regarding our operations adjacent to the AFD.

During the meeting on Friday we agreed to provide additional information to supplement our responses related to minimizing impact and investigation of alternatives. I have appended the supplemental information to the language provided in the original notification (repeated herein (italicized) to provide the complete response in one document). Supplemental text is bolded for easier reference.

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Commissioners: Frederick N. Elofson, CPA, Chair • Maurice P. Lynch, PhD, Vice-Chair • Vishnu K. Lakdawala, PhD
Michael E. Glenn • Stephen C. Rodriguez • Willie Levenston, Jr. • Ann W. Templeman • Elizabeth A. Taraski, PhD
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1. *HRSD requires additional land adjacent to its Williamsburg Treatment Plant in James City County to add advanced treatment facilities to support alternative disposal of treated wastewater. The HRSD Williamsburg Treatment Plant (WTP) was constructed on property acquired from the Colonial Williamsburg Foundation in James City County. The parcel created at that time was carved out of a larger parcel that completely surrounds the HRSD property. There is insufficient property on the current parcel to support HRSD requirements for construction of advanced treatment facilities and the associated aquifer recharge wells that will minimize surface water discharge. This work has been proposed by HRSD in response to a federal enforcement action taken by the United States Environmental Protection Agency and the Department of Justice against HRSD. The proposed schedule requires construction of these facilities to be complete by 2023. To meet that completion schedule, site investigation and surveying must begin no later than April 1, 2019.*
2. *HRSD is a political subdivision of the Commonwealth of Virginia created in 1940 to protect the waters of Hampton Roads from pollution, "in all respects for the benefits of the inhabitants of the Commonwealth and for the promotion of their safety, health, welfare, convenience and prosperity." (Acts of the Assembly 1960, c. 66). Adding advanced water treatment facilities and recharge wells will allow HRSD to divert over 90 percent of the treated wastewater that is currently discharged to the James River and ultimately the Chesapeake Bay from the Williamsburg Treatment Plant to a beneficial reuse as a sustainable groundwater supply. The demand for groundwater to support Virginians in Eastern Virginia is outpacing the natural recharge rate and this beneficial reuse will ensure adequate supply for future generations. The diversion from the surface water discharge will improve the health of the James River and help Virginia meet its federally mandated nutrient reductions more cost effectively and faster than otherwise possible.*
3. *HRSD intends to take by condemnation the entire parcel 5820100002 shown on the attached map. In June 2017 HRSD conducted a public hearing concerning its need to acquire this parcel. As part of that process, HRSD provided notice to Carter's Grove Associates, LLC, the landowner of record, and a representative of Carter's Grove appeared and spoke at the public hearing. In July 2017, the HRSD Commission formally adopted a resolution approving the acquisition of the property through condemnation or other means. Since that time, HRSD has been in negotiations with the owner to reach an agreement to purchase parcel 5820100002 but negotiations have stalled. Given the current stalled status of negotiations after more than a year of effort, the pressing schedule to begin on-site survey, soil borings and related investigations, and the authorization by the HRSD Commission to acquire parcel 5820100002 by condemnation, HRSD intends to proceed with condemnation upon receiving the required AFD impact approvals from James City County.*

4. ~~It is possible that HRSD could avoid impact to the 6.10 acres within parcel 5820100002 that are listed in the ordinance as being within the AFD but that cannot be determined without a detailed survey showing the specific limits of the AFD within parcel 5820100002. Assuming HRSD cannot avoid impacting the acreage within the AFD, The short term impacts include clearing and land disturbing activities associated with construction of the new HRSD facilities. It is anticipated that approximately 7 acres will need to be cleared to support the new facilities. Clearing will be kept to the absolute minimum. No impact to agricultural operations is anticipated as there are none immediately adjacent to the existing HRSD facilities. Long term impacts will be the loss of approximately 7 acres of forestal land. Impact will be minimized through designing and locating facilities in as compact a footprint as possible and utilizing detailed tree surveys to avoid impact and preserve the most valuable specimens. The undisturbed portion of parcel 5820100002 will be preserved and protected in accordance with the requirements of the AFD. HRSD would be willing to discuss the establishment of a permanent conservation easement over the remaining portion of parcel 5820100002 once the specific limits of our required impact has been identified.~~

HRSD has been unable to perform a detailed survey and analysis of the specific impacts as we have no right to access the privately owned parcel that surrounds our existing treatment facilities. Once we have full access to the parcel, our surveyors and engineers can develop a detailed plan that will clearly identify exact impacts on the parcel and the amount of land that would be available to be placed in a permanent conservation easement. Without the ability to perform the required detailed survey including subsurface exploration, HRSD cannot commit to a specific portion or acreage on the existing parcel and thus must acquire the entire parcel to provide the maximum flexibility to design and site facilities to minimize impact on rare species and other valuable natural resources. Acquisition of the entire parcel provides the most flexibility and the greatest ability to minimize impacts to the AFD.

A significant portion of the parcel is unsuited for plant expansion or any development due to steep slopes and the presence of wetlands, James River tributaries and the associated Resource Protection Area (RPA). When these areas are considered, the actual land available to support HRSD's needed new facilities is reduced to approximately 30 acres. The remaining acreage would provide buffer from the adjacent remaining AFD as well as buffer from the other adjacent uses. HRSD ownership of this perimeter ensures safe operation of the plant, protection of our investment of public funds by maintaining the slopes and shore lines, and providing full access to critical infrastructure in existing easements.

In summary, the proposed acquisition includes the entire parcel to allow flexible siting of new facilities to minimize impacts to the forestal resources; to allow HRSD to control and maintain buffer around the entire plant site; to avoid creation of residue that has no dedicated access and limited value; and to protect the investment of public funds by ensuring slopes and shorelines are adequately maintained in the future by HRSD.

It should be noted, this is not a request to remove parcel 582010002 from the AFD. This is only the notification of HRSD's intent to acquire this parcel by condemnation. A future request to remove a portion of parcel 582010002 will be made by HRSD once exact impacts can be determined. HRSD will work with James City County staff and the AFD Advisory Committee to ensure the request to remove a portion of parcel 582010002 meets the needs of the JCC AFD program.

5. *Due to the location of the current WTP facility, totally surrounded by parcel 5820100002 some or all of which is located in the AFD, there are no feasible alternatives that will not require action within this AFD. The current plant cannot be relocated and the proposed new facilities must be immediately adjacent to the existing facility to be viable.*

To maximize the benefits to the Chesapeake Bay (through reduction of discharged nutrients) the advanced water treatment facilities will be designed to treat the entire average daily flow from the existing facilities at the Williamsburg Treatment Plant. Preliminary analysis indicates this will be approximately 8 million gallons per day. Fully treated effluent from the existing treatment facilities will be piped to the advanced treatment process facilities where the water is treated to meet drinking water standards. Each process has some backwash system that must be piped back to the existing wastewater plant for treatment and discharge. Additionally there are critical control points throughout the advanced water treatment system that will divert water back to the wastewater plant if real-time monitoring shows it fails to meet specific parameters. Proximity to the existing plant is critical to controlling capital costs (pumps and piping required to move water back and forth from the existing treatment processes to the advanced treatment processes) and on-going operation and maintenance costs associated with moving more than 8 million gallons daily between two facilities separated by any distance. Staffing costs will also increase with separation of the advanced treatment facilities from the existing plant. Current financial forecasts are based on sharing operators and maintenance staff on the same plant site.

HRSD evaluated the potential use of a 24 acre site at 200 Ron Springs Road. Use of this site increased capital costs by over \$1,000,000 (not including land

acquisition costs) and would increase operation and maintenance costs due to the separation between the existing facilities and the 24 acre site. The parcel proposed to be acquired through condemnation (5820100002) would still be impacted as a significant pipe/utility and access corridor would need to be constructed between the existing facilities and the 24 acre parcel. Thus, use of the 24 acre parcel would still require disturbing land within the AFD on parcel 582010002. Based on our unsuccessful negotiations with the owner of parcel 582010002, condemnation would likely still be required to obtain the pipe/utility and access corridor across parcel 582010002, so this notification and process would still be necessary. Additionally, condemnation of a non-contiguous parcel appears to be an over-reach of authority when the only reason would be to minimize impact in an AFD, especially considering the 24 acre parcel is nearly identical from both a current land use and from a flora and fauna perspective to the adjacent parcel within the AFD.

6. The proposed facilities have the potential to resolve groundwater shortages for the residents of Eastern Virginia, including the residents of James City County.

Thanks again for meeting to discuss this notification. Please let me know if you need additional information.

Sincerely

A handwritten signature in black ink, appearing to read "Ted Henifin", with a long horizontal flourish extending to the right.

Ted Henifin, P.E.
General Manager