



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

May 13, 2024

Mr. Richard Ward
Ellis Land, LLC
1300 Piccard Drive- Suite 106
Rockville, Maryland 20850
Via Email: reward929@gmail.com

Notice of Special Order Proceeding

DATE: June 11, 2024

TIME: 1PM

CONFERENCE CALL INFORMATION:

CALL-IN NO.: (312) 757-3121
ACCESS CODE: 253-160-749

In re: Ellis Land, LLC
VWP NP 18-000587

Dear Mr. Ward:

You are hereby notified that, pursuant to Virginia Code (“Va. Code”) §§ 2.2-4019 and 10.1-1186, a Special Order Proceeding will be held on June 11, 2024 at 1PM regarding Westmoreland Athletic Complex (the “Facility”) located in Westmoreland County, Virginia. **The Special Order Proceeding will be held via conference call.** At the scheduled time, dial (312) 757-3121, and enter the Access Code 253-160-749 when requested. If you have any difficulty accessing the conference call, please call Gary Wooldridge at 804-584-6716

PURPOSE

The Special Order Proceeding will determine whether Ellis Land, LLC has violated certain provisions of the State Water Control Law and applicable regulations and will determine the appropriateness of injunctive relief and a civil penalty. The alleged violations are set forth in this Notice Letter. DEQ staff will be seeking a Special Order requiring Ellis Land, LLC to comply with the above statutes and regulations at the Facility and pay the maximum civil penalty permitted under the law.

INFORMATION TO BE USED BY DEQ

This letter notifies you of information upon which DEQ staff may rely to request the issuance of a Special Order. In addition to the information enclosed with this Notice Letter and labeled as "DEQ Exhibit Book," DEQ staff may also rely on other public documents in DEQ files. The enclosed information, the information in DEQ's case file, and the information presented by witnesses will be relied upon to ascertain the facts in this matter.

DEQ staff will also rely on applicable statutes, regulations, and DEQ guidance. In addition to the laws and regulations cited in this Notice Letter, DEQ may rely on other authorities. Full texts of statutes, regulations, and DEQ guidance can be obtained at <http://www.deq.virginia.gov/LawsRegulations.aspx> or <http://lis.virginia.gov/> (statutes and regulations) and <http://townhall.virginia.gov/L/GDocs.cfm> (DEQ guidance). Copies will be provided upon request.

ALLEGED VIOLATIONS AND LEGAL REQUIREMENTS

1. **Observations:** The site conditions observed during the 2023 inspection have not changed since the 2018 and 2020 DEQ inspections and no corrective action has been completed. The upstream and downstream segments of the restoration reach are still severely and actively eroding. The impacts to state waters have not been mitigated by Ellis Land, LLC.

Legal Requirements: Ellis Land, LLC Final Consent Order, Appendix A required restoration of the impacts to state waters, the submission of restoration and monitoring plans for DEQ approval, and the submission of a mitigation plan complying with 9VAC25-210-116 should restoration efforts fail.

1. **Observations:** The unnamed tributary on site is incised on average 3-5 feet deep from original elevation. Several new drainage patterns in the eastern boundary of the site are forming in un-stabilized areas with less than 15 percent ground cover observed, resulting in the discharge of fill material pollutant into the state waters of the stream restoration reach.

Legal Requirements: Va. Code §62.1-44.15:20(A) and 9VAC 25-210-50 (A) states "A. Except in compliance with an individual or general Virginia Water Protection Permit issued in accordance with this article, it shall be unlawful to: ... 3. Alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, animal

or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses unless authorized by a certificate issued by the Board.”

RECOMMENDED DECISION, RELIEF AND CIVIL PENALTY

DEQ staff will request a Special Order to compel Ellis Land, LLC to comply with the State Water Control Law and applicable regulations. Specifically, DEQ staff will request a Special Order requiring Ellis Land, LLC to engage in corrective actions on the site related to achieving stabilization of denuded areas and restoration of streams impacted by discharges of sediment pollutant from the denuded areas of the site and pay a civil penalty.

PROCEDURES

You may participate in the conference call yourself or by counsel or other qualified representative pursuant to Va. Code § 2.2-4019. At this proceeding, Ellis Land, LLC will be able to present factual data, argument, or proof in connection with this case. DEQ staff may rely on the enclosed documents, other documents in its files, and statements of DEQ staff to substantiate the alleged violations. A presiding officer will hear the evidence in this case and prepare an independent Findings of Fact and Conclusions of Law and a draft Order for the Director’s review. The Director will then issue a decision in this matter. If the Director issues a Special Order under Va. Code § 10.1-1186, it may include both injunctive relief and a civil penalty.

Be advised that if you fail to attend or appear without good cause at an informal fact-finding proceeding conducted pursuant to Va. Code § 2.2-4019, the presiding officer may issue a default order regarding the subject of this notice. If a default order is issued, the presiding officer may conduct all further proceedings necessary to complete the adjudication and shall determine all issues in the adjudication, including those affecting you. Further, an order may be issued against you based on any admissions or other evidence without notice to you.

You will be notified of the results of the proceeding in accordance with Va. Code § 2.2-4019 and have the right to appeal any adverse decision in accordance with Va. Code § 2.2-4026.

Gary Wooldridge will represent DEQ at this proceeding. Please contact Gary Wooldridge at 804-584-6716 or gary.wooldridge@deq.virginia.gov within ten (10) calendar days of the receipt of this letter to indicate whether you will be represented at this Special Order Proceeding by counsel or if you are unable to participate by conference call at the scheduled time.

DEQ encourages settlement of this matter at any time if such settlement is consistent with the provision and objectives of the applicable laws and regulations. You may request a settlement conference with DEQ staff to discuss the allegations in the notice. A request for a settlement conference or the opportunity to submit documentation will not affect the scheduled proceeding unless the parties and the presiding officer otherwise agree. If you wish to arrange an informal settlement conference or discuss the opportunity to submit documentation, please call Gary Wooldridge within ten (10) calendar days of receipt of this notice.

If you have any questions or require assistance, please contact Gary Wooldridge at 804-584-6716 or gary.wooldridge@deq.virginia.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee Crowell". The signature is fluid and cursive, with the first name "Lee" and last name "Crowell" clearly distinguishable.

Lee Crowell, Esq.
Director, Division of Enforcement

Enclosure:
Exhibit List

CC:
Richard H. Stuart, Esq., Registered Agent
Natalie Womack, Hearing Officer
Carla Pool, DEQ Adjudications Officer