

June 17, 2024

Suzanne Marmon
Exploration Research, Inc.
6339 Howard Lane
Elkridge, MD 21075

Re: BGE Granite Gas Line Replacement
Forest Conservation Variance
Tracking # 04-23-3954

Dear Suzanne Marmon:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was originally received by the Department of Environmental Protection and Sustainability (DEPS) on August 3, 2023 to remove 31 of 62 specimen trees. However, revisions to the project's limit of disturbance during final design resulted in a revised variance request received June 11, 2024 to remove 34 specimen trees in order to replace 2.85 miles of aging gas pipeline with upgraded 30 inch diameter pipe. All 34 of the trees are in forest to be cleared and mitigated in accordance with a DEPS-approved forest conservation plan.

The Director of DEPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of the property. The applicant is seeking to make required upgrades to an existing natural gas pipeline. The removal of forest adjacent to the existing BGE right of way, which includes these specimen trees, is required due to site and federal regulatory constraints. Therefore, were a variance to remove specimen trees denied and the upgrade not made, the existing pipeline may be required to be decommissioned thus depriving the petitioner of all beneficial use of the property. Consequently, we find that this criterion has been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general

conditions of the neighborhood. Rather than general conditions in the neighborhood, the petitioner's plight is due to unique circumstances associated with the location of the 34 specimen trees along the 2.87-mile project and the area of disturbance required for the installation of the replacement pipeline relative to the specimen trees' locations. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. No change in land use would result, most of the forest cleared for project would be replaced, and the pipeline has existed for years in the neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. DEPS staff have determined that although wetlands and Forest Buffer areas would be impacted by the replacement pipeline, these impacts would be adequately minimized through reforestation of these resources in accordance with a DEPS-approved forest conservation and forest buffer protection plan (FCP/FBP) and approval conditions of the companion alternatives analysis. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions on the property necessitating this variance prior to its request, as the replacement pipeline is required by federal regulation. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of DEPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing the removal of 34 specimen trees to replace the pipeline would be consistent with the spirit and intent of this law given that forest clearing and impacts to water quality will be mitigated on and offsite. Moreover, avoiding the impacts to streams in several locations necessitates the removal of these specimen trees. Additionally, impacts to the forest buffer will be mitigated as conditions of the alternatives analysis approval. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. No separate mitigation is required for removal of the specimen trees, as they are in forest being replaced on and offsite in accordance with a DEPS-

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approved forest conservation plan (FCP). However, this variance approval does not exempt future development activity on the affected properties, including removal or critical impact to specimen trees, from compliance with Baltimore County's Forest Conservation Law.

2. The following note must appear on all subsequent plans for this project:

“A variance (tracking #04-23-3954) was granted to Baltimore County's Forest Conservation Law to allow removal of 34 specimen trees. Conditions were placed on this variance to ensure the spirit and intent of this law were met including onsite reforestation.”

3. A final FCP revised to reflect this variance as well as previous DEPS comments shall be submitted to DEPS and approved prior to grading permit approval.

Please have the appropriate BGE representative sign the statement on the next page and return a signed copy of this letter to this Department. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

This variance is approved by the Director of the Department of Environmental Protection and Sustainability on _____. Any changes to site layout may require submittal of revised plans and a new variance request.

If you have any questions regarding this correspondence, please call Glenn Shaffer at (410) 887-3980.

Sincerely yours,

Horacio Tablada
Director

HT/ges

- c. Kevin Hedge, BGE
Michael Butler, Northern Bay
Daniel Coy, Maryland DNR

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I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

BGE Representative's Signature

Date

Printed Name