



Maryland
Department of
the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Crumbles, Secretary
Horacio Tablada, Deputy Secretary

March 29, 2021

Percontee, Inc.
Attn: Joseph Horton
11900 Tech Road
Silver Spring MD 20904

RE: State Water Appropriation and Use Permit No. MO1997S002(03)

Dear Mr. Horton:

Enclosed is your State Water Appropriation and Use Permit. The Permittee is responsible for complying with all permit conditions. Accordingly, you are advised to carefully read the Permit and become thoroughly familiar with its requirements.

A semi-annual Water Withdrawal Report is required by this permit. Forms for making this report will be mailed to you in June and December of each year and shall be submitted to this office by the following July and January respectively. If you have any questions, please contact this office at (410) 537-3590.

Sincerely,

A handwritten signature in blue ink, appearing to read "N. Lazarus".

Norman Lazarus
Water Supply Program

cc: Montgomery Department of Permitting Services

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER AND SCIENCE ADMINISTRATION

WATER APPROPRIATION AND USE PERMIT

Permit Number: MO1997S002(03)
Effective Date: April 15, 2021
Expiration Date: March 31, 2033
First Appropriation: March 1, 1997



PERCONTEE, INC.

Hereinafter referred to as the "Permittee", is authorized by the Water and Science Administration, hereinafter referred to as the "Administration" pursuant to the provisions of Title 5 of the Environment Article, Annotated Code of Maryland (2013 replacement volume) as amended, to appropriate and use waters of the State subject to the following conditions:

1. Allocation - The water withdrawal granted by this permit is limited to:
A daily average of 9,500 gallons on a yearly basis and
A maximum daily withdrawal of 18,500 gallons.
2. Use - The water is to be used for concrete mixing and dust control at the concrete batch plant.
3. Source - The water shall be taken from Paint Branch.
4. Location - The point(s) of withdrawal shall be located at 11700 Cherry Hill Road, Silver Spring, Montgomery County, Maryland.

5. Right of Entry - The Permittee shall allow authorized representatives of the Administration access to the Permittee's facility to conduct inspections and evaluations necessary to assure compliance with the conditions of this permit. The Permittee shall provide such assistance as may be necessary to effectively and safely conduct such inspections and evaluations.
6. Permit Review - The Permittee will be queried every three years (triennial review) regarding water use under the terms and conditions of this permit. Failure to return the triennial review query will result in suspension or revocation of this permit.
7. Permit Renewal - This permit will expire on the date indicated on the first page of this permit. In order to renew the permit the Permittee shall file a renewal application with the Administration no later than 45 days prior to the expiration.
8. Permit Suspension or Revocation - This permit may be suspended or revoked by the Administration upon violation of the conditions of this permit, or upon violation of any regulation promulgated pursuant to Title 5 of the Environment Article, Annotated Code of Maryland (2013 Replacement Volume) as amended.
9. Change of Operations - Any anticipated change in appropriation which may result in a new or different use, quantity, source, or place of use of water shall be reported to the Administration by the Permittee by submission of a new application.
10. Additional Permit Conditions - The Administration may at anytime (including triennial permit review or when a change application is submitted) revise any condition of this permit or add additional conditions concerning the character, amount, means and manner of the appropriation or use, which may be necessary to properly protect, control and manage the water resources of the State. Condition revisions and additions will be accomplished by issuance of a revised permit.
11. Drought Period Emergency Restrictions - If the Administration determines that a drought period or emergency exists, the Permittee may be required under the Department's direction to stop or reduce water use. Any cessation or reduction of water use must continue for the duration of the drought period or emergency, or until the Administration directs the Permittee that water use under standard permit conditions may be resumed.
12. Non-Transferable - This permit is non-transferable. A new owner may acquire authorization to continue this appropriation by filing a new application with the Administration. Authorization will be accomplished by issuance of a new permit.

13. Flow Measurement - The Permittee shall measure all water used by a method which accurately reflects the quantity withdrawn.
14. Withdrawal Reports - The Permittee shall submit to the Administration, semi-annually (July-December, no later than January 31st and January-June, no later than July 31st), pumping records. These records shall show the total quantity of water withdrawn each month under this permit.
15. Permit Supersession - This permit supersedes the Appropriation and Use granted by the following prior permit(s) issued to:
PERCONTEE, INC. effective on February 1, 2009 (MO1997S002(02))
16. Flow-By - At all times during water withdrawals under this permit there must be a flow-by of at least 0.8 cubic feet of water per second of time (359 gpm) flowing in the Paint Branch past the Permittee's point of withdrawal.
17. WaterAlert Service - To determine compliance with the above flow-by in Paint Branch (Condition No. 16 above) the Permittee shall subscribe to the United States Geological Survey's (USGS) WaterAlert service for gage 01649500 Northeast Branch Anacostia River at Riverdale following the instructions available at <http://water.usgs.gov/wateralert/help/instructions.html>. Withdrawals of water from Paint Branch shall occur only when the flow on any given day at gage 01649500 Northeast Branch Anacostia River at Riverdale is at least 5.4 CFS.
18. Intake Screening – In order to make withdrawals authorized under this permit the intake shall be screened to protect aquatic species.

saeid kasraei

Saeid Kasraei
Administrator
Water Supply Program

4/4/2021

Date

FACT SHEET JUDICIAL REVIEW PROCESS

Legislation passed by the 2009 General Assembly changes procedures for certain permits issued by the Department, including water appropriation permits. The judicial review procedures took effect on January 1, 2010 and applies to final permit decisions issued on and after January 1, 2010.

Under pre-existing procedures, permit applicants and third parties with standing under Maryland law could challenge the issuance of a permit or the conditions of a permit through a request for a "contested case" adjudicatory hearing conducted by the Office of Administrative Hearings. Effective January 1, 2010, the "contested case" process no longer applies to final decisions on applications for these permits. Rather, permits can be challenged through a request for direct judicial review in the Circuit Court for the county where the activity authorized by the permit will occur. Applicants, and persons who meet standing requirements under federal law and who participated in a public comment process by submitting written or oral comments (where an opportunity for public comment was provided), may seek judicial review. Judicial review will be based on the administrative record for the permit compiled by the Department and limited to issues raised in the public comment process (unless no public comment process was provided, in which case the review will be limited to issues that are connected to the permit).

Who Has Standing?

Anyone who meets the threshold standing requirements under federal law and is either the applicant or someone who participated in the public participation process through the submission of written or oral comments, as provided in Environment Article § 5-204, Annotated Code of Maryland. The three traditional criteria for establishing standing under federal law are injury, causation, and redressability, although how each criterion is applied is highly fact-specific and varies from case to case. Further, an association has standing under federal law to bring suit on behalf of its members when its members would otherwise have standing to sue in their own right, the interests at stake are related to the organization's purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.

What is the Procedure for Seeking Judicial Review?

Petitions for judicial review of a final determination or permit decision subject to judicial review must be filed in accordance with § 1-605 of the Environment Article no later than 30 days following publication by the Department of a notice of final determination or final permit decision and must be filed in the circuit court of the county where the permit application states that the proposed activity will occur. Petitions for judicial review must conform to the applicable Maryland Rules of Civil Procedure (Title 7, Chapter 200).

To review the legislation follow the link below:

http://mgaleg.maryland.gov/2009rs/chapters_noln/Ch_650_sb1065T.pdf

For a complete list of permits that these procedures apply to follow the link below:

<http://www.mde.maryland.gov/programs/researchcenter/legislativetestimony/pages/jrproc.aspx>