Dear Mr. Cuthbertson,

The Advocates for Herring Bay request that the Department of the Environment hold a public hearing on all aspects of Anne Arundel County's proposed dredging of the Town Point Cove, including the environmental and community impacts of the dredge material containment facility (DCF) that would handle the spoils. We request that the hearing be held at a location near the affected communities of Town Point and Fairhaven in southern Anne Arundel County.

Our preliminary review of available information suggests that the following issues should be addressed by the state regulatory agencies:

1. Approval of the proposed dredging at Town Point Cove is contingent on the availability of a storage site for the 17,574 cubic yards of spoils that would be generated by the county's projects. The existing DCF at Town Point can only handle 2,000 cubic yards of material, so there is insufficient capacity at this time.

2. Implicit in the county's dredging application is a plan to dramatically change the scale and intensity of the dredge storage operation located within the Critical Area at Town Point. Although characterized as an "upgrade" or "revitalization," the county's plan would transform what is now a passive use of land for spoils storage into a quasi-industrial operation. For example, the upgrade would involve:

– increasing the storage capacity by over 50 percent (from 50,000 to 77,000 cubic yards)
– extending the area of disruption somewhat closer to Trotts Branch and related wetlands
– constructing 20-foot berms within 50 to 60 feet of Trotts Branch
– repeatedly excavating materials from the DCF after a 3-4 year dewatering cycle
– continuously offloading spoils dredged from other areas during the winter months, and
– generating thousands of truck-trips on narrow Scenic and Historical Highways.

3. Because of the scope and scale of these changes, the proposed revitalization of the Town Point DCF should not be allowed to occur—or be "grandfathered"—under the original permit for the site. Although the county has not been able to provide us with information on original site plans or permits, we have been told by the county that the Town Point DCF was designed, permitted, and built by the U.S. Army Corps of Engineers, probably more than 20 years ago. To our knowledge, the existing operation has only involved filling the site once, without any reuse. Thus, it is unlikely that the original permits authorized the intensity of use now being planned by the county. Were the terms and conditions of the permit changed when the operation was transferred from the Corps to the county?

4. Critical Area performance standards also must be factored into the permitting process. The plan calls for increasing the area that would be disturbed, all of which is in a resource conservation area. As is clear from the attached aerial photograph, the Town Point DCF is located in a sensitive wetland area that adjoins hundreds of acres of forest habitat as well as rural communities. Residents who kayak along the cove and into Trotts Branch report seeing a wide variety of avian and other species, including eagles, herons, turtles, and crabs. According to the county's engineering plans, all of the surface and subsurface effluents will be discharged directly

into a tidal wetland without any special mitigation measures for storm conditions or potential contaminants.

5. Future permits, if any, should be set to expire when the county's existing lease for Town Point comes up for renewal in 2013, but no later than February, 2023, the year the current lease expires. Town Point should not be allowed to become a perpetual DCF site because of leasing and siting decisions made a generation ago. Maryland is at the forefront of efforts to use dredge materials to build rather than degrade wetlands; we urge the state to partner with Anne Arundel County to channel all of its uncontaminated spoils into similarly beneficial uses.

6. The dredging permits should require testing of the spoils before they are stored at a DCF. Historically, the creeks in southern Anne Arundel County had little contamination, but recent water quality tests done by area riverkeepers suggest the presence of various toxins. Dredge materials from marinas could contain heavy metals, fungicides, petrochemicals, lead, and other contaminants. Treatment strategies must reflect the actual, not assumed, characteristics of the spoils.

7. Any permit for use of a DCF should require more thorough and frequent water quality monitoring. According to the site plans, the county currently only measures for turbidity, and only does so quarterly once the filling operations stop. By what process would the spoils be de-watered at the Town Point site? To what extent would the DCF rely on ponding and evaporation or release into groundwater and Trotts Branch? How would those impacts be monitored?

8. Repeated offloading of spoils from other waterways would disturb the wetlands along Town Point Cove. The method of offloading spoils should not be left to the discretion of contractors. At Corps projects, the choice of offloading methods is based on a thorough assessment of the environmental impacts of each alternative. The same must be done for county projects.

9. Any permit for use of the DCF site must ensure that disturbed areas are re-vegetated throughout the life of the project with plant species suited to wetland habitats and supportive of native biota. The vegetative requirements for Town Point should be comparable to the results expected for the DCFs at Poplar Island, James Island, and Barren Island. As you know, dredge sites are vulnerable to infestation by phragmites and other invasive species, and this area is no exception. Having worked with the federal Fish and Wildlife Service this fall to eradicate phragmites in the Fairhaven and Town Point areas, we are concerned that poor vegetation management of the DCF site (either existing or future operations) will undermine our progress.

10. Constant reuse of a DCF would generate significant volumes of heavy-truck traffic on narrow roads with blind curves. Any activity involving such vehicles should require a traffic management plan developed in cooperation with the community.

11. What is the justification for dredging the slips in the marina to a depth of 6 feet? Is there documentation that proves that those areas were that deep in 1973, the year we understand is used as a benchmark for such dredging? Is the square footage proposed for dredging justified based on past practices? Will the depth and expanse of the dredging allow the property owners to

change the nature of their marina operations? We also question why a taxpayer-financed DCF would be used to store dredge materials generated by individuals.

12. It was only by serendipity that nearby communities became aware of the proposed upgrade of the Town Point DCF and of the MDE's review of the dredging application. We recommend that communications with the communities be formalized and include routine reports on the results of water, soil, and air quality monitoring; regular site visits to monitor re-vegetation; direct notification of any permitting matters; and annual consultation on traffic issues.

We appreciate this opportunity to comment on the proposed dredging operations and look forward to working with all parties to resolve the important environmental and community issues related to this development.

Sincerely,
Kathy Gramp
President
Advocates for Herring Bay
December 1, 2006