

November 7, 2024

Kevin Hedge
Baltimore Gas and Electric Company
1699 Leadenhall Street
Baltimore, MD 21230

Re: BGE Notchcliff Propane Storage Facility
Forest Conservation Variance
Tracking # 03-24-4097

Dear Kevin Hedge:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by the Department of Environmental Protection and Sustainability (DEPS) on February 26, 2024 to remove Specimen Tree #13 at the BGE Notchcliff Propane Storage Facility on Harford Road. The specimen tree is a 31.5 diameter at breast height Tulip Poplar in good condition located within a forested area onsite. There are twelve other specimen trees on the property that will remain. The specimen tree is proposed for removal to allow for the installation of liquid nitrogen lines needed at the facility for safety and monitoring purposes. The proposed underground nitrogen line will impact greater than 33% of the tree's critical root zone necessitating removal of the tree.

The Director of DEPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the 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 (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) 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 all beneficial use of this property. The BGE Notchcliff Propane Storage Facility is located at the intersection of Notchcliff Road and Harford Road and consists of multiple parcels. The site includes developed areas with buildings, parking areas, and roads as well forested areas. Some of the forested areas are within forest conservation easements as a result of previous development projects onsite. Given that the propane storage facility has been operating without having to remove any of the existing specimen trees on the property, compliance with the Forest Conservation Law will not deprive the petitioner of all beneficial use of the property. Consequently, we find that this criterion has not 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. There are thirteen specimen trees that are scattered throughout the property. The need to remove the specimen tree is a result of its location relative to the proposed underground nitrogen line and not the general conditions in the neighborhood. 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. The propane storage facility consists of developed areas with buildings, parking areas, and roads and large areas of forest. The majority of the surrounding properties have extensive forested areas. The removal of one specimen tree on the property will not alter the essential character of the neighborhood. Therefore, 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. There is a Forest Buffer area on the property along the north and eastern property boundaries. The specimen tree proposed for removal is located outside the buffer. All vegetated areas disturbed for the installation of the nitrogen line inside the buffer will be returned to their pre-disturbance state and best management practices will be utilized to prevent sediment from entering the streams on and adjacent to the property. Therefore, we find that granting the 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 need for this variance request is a result of the location of the specimen tree relative to the location of the proposed nitrogen lines. The petitioner has taken no actions necessitating this variance prior to its request. 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. The proposed liquid nitrogen lines will serve critical safety and monitoring needs at the propane storage facility. Only one of the thirteen specimen trees on the property will be impacted by the project. There are multiple forest conservation easements on the property established as a result of previous development activities onsite. None of these easement areas will be impacted by the proposed nitrogen lines. Therefore, we find that this variance request is consistent with the spirit and intent of Article 33 of the Baltimore County Code. 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. The specimen tree proposed for removal is located within a forested area on the property. Mitigation is not required for this specimen tree because it is located within the forest onsite and forest conservation was previously addressed for the development.
2. The final forest conservation plan must reflect the conditions of this variance.

3. All plans prepared for BGE Notchcliff Propane Storage Facility must include the following note:

“A Forest Conservation Specimen Tree Variance (Tracking Number 03-24-4097) was granted by the Baltimore County Department of Environmental Protection and Sustainability to allow the removal of one specimen tree. No mitigation was required for removal of this tree because it is located within the forest onsite and forest conservation was previously addressed for the development. If any specimen tree shown on the plan “to remain” is proposed to be removed, special variance approval or written authorization must first be obtained from the Department of Environmental Protection & Sustainability. ”

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department. If there are any questions regarding this correspondence, please contact Mr. Gris Batchelder at (410) 887-3980.

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.

Sincerely,

Horacio Tablada
Director

HT/cgb

cc : Stephen Huber, Exploration Research Inc.
Daniel Coy, Maryland Department of Natural Resources

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

Responsible Party’s Signature

Date

Responsible Party’s Printed Name