

CF 7r1735

By: Delegate Minnick (Baltimore County Administration) and Delegates Arnick, DeCarlo, Dypski, Hammen, Holt, Krysiak, Mohorovic, and Weir

Introduced and read first time: January 29, 1997

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 1997

CHAPTER ____

1 AN ACT concerning

2 **Environment - Dredge Spoil - Hart-Miller-Pleasure Island**

3 FOR the purpose of prohibiting the disposition of dredge spoil at the Hart-Miller Island
 4 Dredged Material Containment Facility after ~~the first to occur of either~~ a certain
 5 date ~~and from exceeding or~~ certain heights in certain cells ~~are reached~~; prohibiting
 6 the Board of Public Works from issuing a license or an amendment to a license
 7 authorizing the disposition of dredge material in the Hart-Miller Island Dredged
 8 Material Containment Facility after a certain date and from exceeding certain
 9 heights in certain cells; requiring certain State agencies to hold public meetings
 10 concerning the development of the Hart-Miller Island Dredged Material
 11 Containment Facility; requiring certain State agencies to ~~enter into a memorandum~~
 12 ~~of understanding or~~ agree to an amendment to the memorandum of understanding
 13 by a certain date that will include certain information; and generally relating to
 14 dredge spoil at Hart-Miller-Pleasure Island.

15 BY repealing and reenacting, with amendments,

16 Article - Environment

17 Section 5-1103 and 16-202

18 Annotated Code of Maryland

19 (1996 Replacement Volume and 1996 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

21 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article - Environment**

2 5-1103.

3 (a) (1) Except for dredge spoil from local dredging projects initiated by
 4 Baltimore County in the waters of Baltimore County, the Department may not approve
 5 any contained area for the redeposit of spoil within 5 miles of the Hart-Miller-Pleasure
 6 Island chain in Baltimore County.

7 (2) A contained area described in paragraph (1) of this subsection may not
 8 exceed the approximately 1,100 acre size provided in the projects U.S. Army Corps of
 9 Engineers permit dated November 22, 1976.

10 (3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,
 11 DREDGE SPOIL MAY NOT BE DEPOSITED IN THE HART-MILLER ISLAND DREDGED
 12 MATERIAL CONTAINMENT FACILITY AFTER THE FIRST OF THE FOLLOWING TO
 13 OCCUR:

14 1. THE MAXIMUM HEIGHT OF DREDGE SPOIL DEPOSITED IN
 15 THE HART-MILLER ISLAND DREDGED MATERIAL CONTAINMENT FACILITY MAY
 16 NOT EXCEED REACHES:

17 1- A. 44 FEET ABOVE THE MEAN LOW WATER MARK IN
 18 THE NORTH CELL; ~~OR~~ AND

19 2- B. 28 FEET ABOVE THE MEAN LOW WATER MARK IN
 20 THE SOUTH CELL; ~~OR~~

21 (II) ON OR AFTER JANUARY 1, 2010, DREDGE SPOIL MAY NOT BE
 22 DEPOSITED IN THE HART MILLER ISLAND DREDGED MATERIAL CONTAINMENT
 23 FACILITY.

24 2. JANUARY 1, 2010.

25 (II) NEW DREDGE SPOIL DREDGED FROM A CHANNEL MAY NOT BE
 26 DEPOSITED IN THE SOUTH CELL.

27 (b) (1) Except as provided in paragraph (2) of this subsection, only spoil from
 28 the excavation or dredging of Baltimore Harbor, its approach channels, and Baltimore
 29 County tributary spoil from an approved dredging project in any of the Baltimore County
 30 tributaries of the Chesapeake Bay may be redeposited in a contained area described in
 31 subsection (a) of this section.

32 (2) Only dredge spoil from local dredging projects initiated by Baltimore
 33 County in the waters of Baltimore County may be redeposited in any additional contained
 34 area for the redeposit of spoil authorized under subsection (a)(1) of this section.

35 16-202.

36 (a) A person may not dredge or fill on State wetlands without a license.

37 (b) The Secretary shall assist the Board in determining whether to issue a license
 38 to dredge or fill State wetlands. The Secretary shall submit a report indicating whether
 39 the license should be granted and, if so, the terms, conditions, and consideration required

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1 after consultation with any interested federal, State, and local unit, and after issuing
2 public notice, holding any requested hearing, and taking any evidence the Secretary
3 thinks advisable.

4 (c) (1) Upon receipt of a report by the Secretary, the Board shall decide if
5 issuance of the license is in the best interest of the State, taking into account the varying
6 ecological, economic, developmental, recreational, and aesthetic values each application
7 presents. If the Board decides to issue the license, the issuance of the license shall be for
8 consideration and on terms and conditions the Board determines. Every license shall be
9 in writing.

10 (2) With respect to an application for a license to fill or construct a shore
11 erosion control structure other than riprap on State wetlands, the Board may issue the
12 license without public notice if the fill area is less than 300 feet in length parallel to the
13 fast land as close to the fast land as structurally feasible but not more than 10 feet
14 channelward of the mean high water line and if after a site visit the report of the
15 Secretary recommends that the license be granted. The Board may issue a license without
16 public notice where an emergency exists caused by act of God, natural disaster,
17 catastrophe, or other similar natural event when the health, safety, or welfare of the
18 citizens of the State would be jeopardized by a delay caused by time requirements for
19 public notice. However, the license may be granted by the Board only with the
20 concurrence of the Secretary. The Secretary shall provide prompt public notice of the
21 emergency license issuance and the opportunity to submit written comments or to request
22 a hearing to determine whether the emergency license shall be revoked or made
23 permanent. If a hearing is requested, the hearing shall be scheduled within 30 days of the
24 emergency issuance of the license.

25 (3) If the report of the Secretary recommends that a license be granted, the
26 Board may issue the license without public notice:

27 (i) To fill or construct a shore erosion control structure of riprap on
28 State wetlands if the fill area is less than 500 feet in length parallel to the fast land as
29 close to the fast land as structurally feasible but not more than 10 feet channelward of the
30 mean high water line;

31 (ii) To repair or replace a bulkhead for the purpose of shore erosion
32 control where the bulkhead is presently functional, but is deteriorating or damaged,
33 provided that the repair or replacement structure does not extend more than 18 inches
34 channelward of the existing structure. Repair or replacement may include riprap placed
35 along the base of the bulkhead, provided that the riprap shall not extend more than 10
36 feet channelward of the bulkhead;

37 (iii) To fill near shore shallow water bottom extending no more than 35
38 feet channelward of the mean high water line provided the fill area is less than 500 feet in
39 length parallel to the fast land for the purpose of shore erosion control by landscaping
40 and wetland plant establishment;

41 (iv) To construct or repair a private noncommercial boat ramp
42 provided the ramp does not exceed 12 feet in width and extend more than 30 feet
43 channelward of the mean high water line; or

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1 (v) To maintenance dredge a mooring, private or commercial boat
2 ramp, mobile boat hoist slip, or marine railway when no more than 100 cubic yards of
3 material nor an area greater than 1,500 square feet need to be dredged.

4 (4) With respect to the maintenance dredging of projects in State wetlands
5 for which a license is to be issued, the license may include provision for periodic
6 maintenance dredging if recommended by the report of the Secretary provided that the
7 maintenance dredging be effected:

8 (i) Within the area, depth, and in conformity with other limitations
9 contained in the license;

10 (ii) That no more than 500 cubic yards of material be dredged at each
11 maintenance dredging to restore licensed works;

12 (iii) That the material from maintenance dredging be deposited upon
13 the designated or other upland site approved by the Secretary; and

14 (iv) That the Secretary be notified and approve of each maintenance
15 dredging operation.

16 (5) The provisions for periodic maintenance dredging under paragraph (4)
17 of this subsection shall be effective for no more than 6 years beyond the date of issuance
18 of the license.

19 (6) If the licensee desires to continue maintenance dredging beyond the
20 expiration date authorized in paragraph (5) of this subsection, the licensee must obtain a
21 new license by submitting an application to the Board for review in accordance with the
22 procedures of this section.

23 (d) The provisions of this section do not apply to any operation for:

24 (1) Dredging and filling being conducted as of July 1, 1970, as authorized
25 under the terms of an appropriate permit or license granted under the provisions of
26 existing State and federal law;

27 (2) Dredging of seafood products by any licensed operator, harvesting of
28 seaweed, or mosquito control and abatement as approved by the Department of
29 Agriculture;

30 (3) Improvement of wildlife habitat or agricultural drainage ditches as
31 approved by an appropriate unit; or

32 (4) Routine maintenance or repair of existing bulkheads, provided that
33 there is no addition or channelward encroachment.

34 (E) (1) THE BOARD MAY NOT APPROVE A LICENSE OR AN AMENDMENT TO
35 A LICENSE AUTHORIZING THE DREDGE MATERIAL DEPOSITED IN THE
36 HART-MILLER ISLAND DREDGED MATERIAL CONTAINMENT FACILITY TO EXCEED
37 AN ELEVATION OF:

38 (I) 44 FEET ABOVE THE MEAN LOW WATER MARK IN THE NORTH
39 CELL; AND

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1 (II) 28 FEET ABOVE THE MEAN LOW WATER MARK IN THE SOUTH
2 CELL.

3 (2) ON OR AFTER JANUARY 1, 2010, THE BOARD MAY NOT APPROVE A
4 LICENSE OR AN AMENDMENT TO A LICENSE AUTHORIZING THE DEPOSIT OF
5 DREDGE MATERIAL AT THE HART-MILLER DREDGED MATERIAL CONTAINMENT
6 FACILITY.

7 [(e)] (F) Any person who violates any provision of this section is guilty of a
8 misdemeanor. Upon conviction, the person is subject to a fine not exceeding \$1,000 with
9 costs imposed in the discretion of the court.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland
11 Department of Transportation and the Department of Natural Resources, in consultation
12 with the Baltimore County government, shall hold at least two public meetings to receive
13 public input on the development of the Hart-Miller Island Dredged Material
14 Containment Facility as a ~~park and recreational facility~~ wildlife habitat and passive
15 recreation area. After the public meetings, the Department of Transportation and the
16 Department of Natural Resources, in consultation with the Baltimore County
17 government, shall ~~enter into a memorandum of understanding or~~ agree to an amendment
18 to the existing memorandum of understanding concerning Hart-Miller-Pleasure Island by
19 ~~December 30, 1997 on a concept plan for the development of the south cell and the north~~
20 ~~cell of the Hart-Miller Island Dredged Material Containment Facility as a park and~~
21 ~~recreational facility. The memorandum of understanding or an amendment to the existing~~
22 ~~memorandum of understanding shall include concept plans for habitat restoration and~~
23 ~~recreational facilities, time lines for completion of the concept plans, construction plans~~
24 ~~and construction, and the State agencies responsible for implementing and funding the~~
25 ~~plans. The memorandum of understanding or the amendment to the memorandum of~~
26 ~~understanding shall provide that the development of the south cell will be substantially~~
27 ~~completed by July 1, 2002 and the development of the north cell will be substantially~~
28 ~~completed by July 1, 2013. June 30, 1998. The amendment to the existing memorandum of~~
29 ~~understanding shall include the existing concept plan for the south cell for wildlife habitat~~
30 ~~restoration and passive recreation, time lines for completion of the construction plans and~~
31 ~~construction, and the State agencies responsible for implementing and funding the plans~~
32 ~~for the south cell. The amendment shall include the time line for the completion of the~~
33 ~~concept plan for the north cell and the State agencies responsible for implementing and~~
34 ~~funding the plans for the north cell. The amendment to the memorandum of~~
35 ~~understanding shall provide that the development of the south cell will be substantially~~
36 ~~completed by July 1, 2002 and the development of the north cell will be substantially~~
37 ~~completed by July 1, 2013.~~

38 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
39 July 1, 1997.

