



July 26, 2023

Via Electronic and USPS mail:

Hon. Carlos Del Toro, Secretary

Hon. Meredith Berger, Assistant Secretary of the Navy, Energy, Installations and Environment/Chief Sustainability Officer

United States Navy
1000 Navy Pentagon
Washington, DC 20350-1000

Re: Violations of Law Regarding Planned Golf Course at Greenbury Point, Annapolis

Dear Secretary Del Toro and Assistant Secretary Berger,

The Chesapeake Legal Alliance (CLA) is a non-profit organization that has for almost 15 years provided legal advice and representation to citizens and organizations working to protect the natural environment of the Chesapeake Bay and its watershed. We are joined by the undersigned organization Save Greenbury Point. Save Greenbury Point is a non-profit organization based in Annapolis, Maryland, dedicated to protecting the 231 acres of Greenbury Point owned by the Department of Defense and operated by the U.S. Navy. They represent the interests of the members of the public who enjoy Greenbury Point, nearly 7,000 of whom have signed a petition opposing this project.

The Navy has officially designated Greenbury Point—a large parcel of forest, wetlands, and meadows—as a natural resource conservation area. As the Naval Academy’s website points out, “[i]t has become a popular hiking destination for nature lovers, runners, walkers, and dog walkers.” That use is now threatened by a proposal from the Naval Academy Golf Association and the Naval Academy Athletic Association to construct a golf course on the property.

We have reviewed the applicable laws and regulations covering the management and use of these 231 acres and believe that the proposed project would violate the Sikes Act of 1960 (16 U.S.C. §§670a-670o), and the Integrated Natural Resources Management Plan (INRMP) the Navy has promulgated pursuant to the requirements of that statute. In addition, the project as proposed would likely violate various other federal and state legal requirements.

1. THE SIKES ACT AND THE INRMP.

The purposes of the Sikes Act include: “(i) the conservation and rehabilitation of natural resources on such [federally owned] installations; (ii) the use of natural and nature-based features to maintain or improve military installation resilience; (iii) the sustainable multipurpose use of the resources on such installations, which shall include hunting, fishing, trapping, and nonconsumptive uses; and (iv) subject to safety requirements and military security, public access to military installations to facilitate the use.” The Act directs that “the Secretary of each military department shall prepare and implement an integrated natural resources management plan for each military installation in the United States under the jurisdiction of the Secretary.”

The Act provides that the INRMP for the Navy’s property at Annapolis is to be prepared in collaboration with the U.S. Fish and Wildlife Service and the Maryland Department of Natural Resources, and those two agencies have approved the current INRMP. Such mutual agreement and cooperation are required by law to support the principles of ecosystem management. This consultation is absolutely critical given the number of state and federal environmental and conservation laws implicated by the development of a golf course (a well-recognized source of water pollution) in a location such as this (immediately adjacent to the main stem of the Chesapeake Bay, which is currently the subject of one of the most ambitious estuary restoration efforts in the world).

As discussed below, relevant and applicable laws include, but are not limited to, the federal Clean Water Act and corresponding and more stringent Maryland Water Pollution Control laws, the federal Coastal Zone Management Act, the Maryland Critical Area Act (for development immediately adjacent to the Chesapeake), state and local erosion and sediment control and stormwater management laws, Maryland wetlands and waterway construction laws, and Maryland water appropriation laws.

The use of Greenbury Point for development of a new, additional golf course would violate the requirements of the Sikes Act quoted above. A golf course would also be inconsistent with “the conservation of natural resources of the area,” would significantly limit public access to existing natural and recreational areas, and would jeopardize wetland protection and support of fish, wildlife, and plants. Moreover, in view of the existing first-class golf course nearby, the construction of another golf course can hardly be argued to be required to support the military mission of the Naval Academy. Such a conversion of this beautiful natural area into a golf course would be entirely inconsistent with the Navy’s own designation of the property as a “Conservation Area” in the INRMP for the Naval Facility at Annapolis, which was adopted in 2016.

2. COMPLIANCE WITH FEDERAL AND STATE LAW

As discussed above, the Sikes Act requires that INRMPs provide for “enforcement of applicable natural resource laws (including regulations).” The federal laws that almost certainly would apply to the construction of a golf course on Greenbury Point include Section 404 of the Clean Water Act (limiting dredging and filling wetlands), 42 U.S.C. § 1344; and 42 U.S.C. § 4332(2)(C) of the National Environmental Policy Act (requiring the preparation of environmental impact statements for actions with significant effects on the environment).

Maryland laws implicated would include:

- a. The regulations of the Maryland Wetlands and Waterways Program, under which permits or authorization from the State are required if a property owner plans to undertake an activity that results in the draining of a wetland or the addition of fill materials to a State regulated wetland or waterway;
- b. The Water Pollution Control laws, which include coverage under Maryland's Construction Stormwater General Permit, and a discharge permit for any point source discharges that may be necessary to operate the golf course, including discharges to groundwater; and
- c. The Chesapeake Bay Critical Areas Act. Federal lands not given a Maryland Critical Area classification are managed in accordance with the Coastal Zone Management Act (CZMA), 16 U.S.C. §§ 1451--1464. However, Maryland Critical Area requirements have been re-incorporated as part of the consistency review process of the CZMA, thus making the comprehensive protections under this law applicable to any activity on Greenbury Point.

The construction and operation of a golf course at this site would violate the letter and spirit of any one of several of these applicable statutes, and would certainly be objectionable given the myriad environmental and wildlife laws relevant to this site. As just one of many examples, the golf course would be located immediately adjacent to the main stem of the Chesapeake Bay and would discharge the very same pollutants (i.e., nitrogen, phosphorus, and sediment) that the Bay restoration effort is designed to reduce. The Navy is a signatory to the 2014 Chesapeake Bay Watershed Agreement, and an action to destroy forested wetlands only to introduce new pollutants would not only send a terrible signal to the other signatory partners, but it would be likely illegal under federal Clean Water Act and corresponding state regulations.

3. RECENT VIOLATIONS OF THE INRMP

As indicated above, both the Sikes Act and the INRMP require managing Greenbury Point in a manner that maximizes public access. For over two decades it was largely open to members of the public, who visited it often. The exception was during the few days a year when live fire exercises were underway at the firing range across Carr Creek. Since the controversy over the golf course arose, however, the Naval Support Activity Annapolis has sharply curtailed access to Greenbury Point, most of which is now open to the public only on Saturday and Sunday. We encourage you to take steps to correct this situation.

4. CONCLUSION

As described above, we believe that the construction of a new golf course on Greenbury Point would violate both the Sikes Act and the current INRMP. In addition, it does not appear that such a project could be carried out consistent with the restrictions of applicable federal and state law. We urge you to take steps to end this proposal and restore the confidence of the many citizens who care about Greenbury Point. In addition, we urge you to direct that public access to the site be restored at all times other than when closing it is required for public safety. The Navy should act to assure that the 231-acre site is kept undeveloped as a natural resource area in perpetuity.

We look forward to receiving your response to these requests.

Sincerely,



David Reed
Executive Director

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