

well as an adjacent property owner, the M-NCPPC inspector has concluded that the forest clearing was done after you took ownership of the property in June 2005. Additionally, a DPS plan reviewer recalls having conversations with you on June 27 and 28, 2005 in which it was stated that your property was completely wooded.

During the October 7, 2005 meeting we explained that this unauthorized clearing activity is a violation and we discussed with you possible corrective actions. At this time you elected to challenge the civil citation issued to you on October 4, 2005. We informed you that you must contact M-NCPPC Legal Staff and file in writing an official challenge to the civil citation.

You submitted a letter dated October 13, 2005 indicating that you wanted to contest the civil citation and you wished to stand trial.

Montgomery County Code, Chapter 19, requires that a property owner obtain a sediment and erosion control permit from Montgomery County Department of Permitting Services ("DPS") prior to commencing any disturbance of more than 5,000 square feet of land in the County. Before DPS may issue a sediment and erosion control permit, the property owner must comply with the requirements of Montgomery County's Forest Conservation Law. Mont. Co. Code, §§ 19-3A, 22A-4(b), 22A-11(d)(3). The Forest Conservation Law provides, that, unless exempt, a property owner must receive review and approval of both a natural resource inventory/forest stand delineation plan and a forest conservation plan, prior to undertaking the land disturbing activity (Mont. Co. Code, §§ 22A-4, 22A-10, 22A-11(d)). According to inspections by Commission staff, you cleared a total of 83,145 square feet (1.9 acres) of forest without an approved forest conservation plan or forest conservation exemption. These violations of the Montgomery County Forest Conservation Law may be sanctioned accordingly.

The civil fine issued by the Commission on October 4, 2005 in accordance with § 22A-16(a) of the Code, fines you One Thousand Dollars (\$1000.00) for the clearing of 83,145 square feet (1.9 acres) of forest. In addition, by this letter, and in accordance with §§ 22A-16(d) and 22A-17 of the Code, the Commission is instituting the following additional enforcement actions:

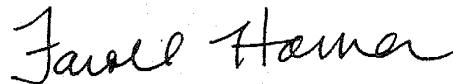
- (A) As the Planning Director, and in accordance with §22A-17, I am issuing an administrative order requiring corrective action be undertaken by you as detailed in Attachment One to this letter; and
- (B) On May 4, 2006, the Montgomery County Planning Board will hold a public hearing to consider the amount of the administrative civil penalty to be imposed on you pursuant to §22A-16(d). Additionally, the Board will also consider the matter of the civil citation issued on October 4, 2005. In determining the amount of the civil penalty at the hearing, pursuant to §22A-16(d)(2), the Board will consider the willfulness of the violation; the damage or injury to tree resources; the cost of corrective action or restoration; any adverse impact on water quality; the extent to which the

current violation is a part of a recurrent pattern of the same or similar type of violation committed by the violator; and other relevant factors. As detailed in that Section, the penalty imposed by the Planning Board must be not less than \$0.30<sup>1</sup> and up to \$1.00<sup>2</sup> per square foot of forest cleared.

As required by §22A-20, the hearing before the Planning Board regarding the imposition of an administrative civil penalty is scheduled for May 4, 2006 in the Planning Board's Hearing Room at 8787 Georgia Avenue, Silver Spring, Maryland 20910. Staff is recommending the imposition of \$1.00 (One Dollar) per square foot of disturbance for a total of \$83,145 (Eighty Three Thousand One Hundred and Forty-Five Dollars). At this hearing, you will have an opportunity to be heard by the Board before it makes its final decision on the amount of the penalty and the status of the civil citation. Additionally, at the May 4, 2006 hearing, you may elect to have a hearing before the Board on the administrative order for corrective action, as required by §22A-20(d).

You may request to meet with staff to discuss the administrative order and staff's recommended civil penalty prior to the May 4, 2006 Planning Board hearing. If you would like to meet with staff or has any questions, please contact Ms. Candy Bunnag at (301) 495-4543 or Mr. Doug Johnsen at 301-495-4571.

Sincerely,



Faroll Hamer  
Acting Director of Park and Planning

Attachment One – Corrective Action

cc: Michele Rosenfeld, M-NCPPC – Legal  
✓ Candy Bunnag, M-NCPPC  
Doug Johnsen, M-NCPPC  
Mark Etheridge, DPS  
Mike Reahl, DPS  
Rick Watson, DPS  
Rich Wolters, MDE

CL:CB:cb

<sup>1</sup> This amount is identified in §5-1608(c) of the Natural Resources Article of the Maryland Code.

<sup>2</sup> This amount is the maximum amount established by the Montgomery County Council by 1992 L.M.C., ch. 4 § 2.

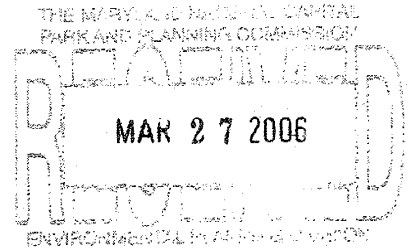
**ATTACHMENT ONE**  
**CORRECTIVE ACTION FOR ANTHONY A. MEREOS**  
**17900 TRUNDLE ROAD; DICKERSON, MARYLAND**

1. Mr. Anthony A. Mereos shall prepare, submit and obtain approval for a natural resource inventory/forest stand delineation plan (NRI/FSD) as defined in Section 22A-10 (b) of the Forest Conservation Law and the *Trees Approved Technical Manual*. The NRI/FSD must show all streams, wetlands, seeps, associated environmental buffers and the extent of the forest on the property before any clearing activities. The NRI/FSD must be submitted to M-NCPPC staff for its review and approval by June 9, 2006.
2. Mr. Mereos shall prepare and submit a Forest Conservation Plan (FCP) for the property at 17900 Trundle Road, Dickerson, MD following M-NCPPC approval of the NRI/FSD. At a minimum the FCP must include a reforestation plan to cover any portion of the environmental buffers that have been cleared. The FCP must be submitted to M-NCPPC staff for its review and approval by August 11, 2006. The FCP shall include details and specifications for land preparation, planting, and minimum two-year maintenance of the planted area. At a minimum, the planting schedule shall include three species of native one-inch caliper trees and three species of native container-grown, 18-inch tall shrubs at the rate of 200 trees/acre and 33 shrubs/acre. The planting plan shall also include measures for deer protection and non-native, invasive species control. The FCP must be consistent with any corrective actions required by the U.S. Army Corps of Engineers (COE), Maryland Dept. of the Environment (MDE) and Mont. Co. Dept. of Permitting Services (DPS)
3. The planting plan for the property at 17900 Trundle Road must be implemented and accepted by M-NCPPC between September 15, 2006 and November 15, 2006 pending approval of the FCP.
4. At a minimum the environmental buffers on the property at 17900 Trundle Road shall be placed in a Category I conservation easement. The easement must be recorded in the land records by August 1, 2006.

**ATTACHMENT 6**

**March 26, 2006 Letter from Mr. Whittaker**

THE LAW OFFICE OF  
**SHAWN C. WHITTAKER**  
SUITE 340  
9055 COMPRINT COURT  
GAITHERSBURG, MARYLAND 20877-1310  
PHONE (301) 208-9114  
FACSIMILE (301) 208-0362



ADMITTED IN MD, VA, DC

www.whittaker-law.com  
shawn@whittaker-law.com

March 24, 2006

Candy Bunnag  
Doug Johnson  
Montgomery County Department of Park and Planning  
8787 Georgia Avenue  
Silver Spring, MD 20910

**Re: Anthony Mereos, 17900 Trundle Road, Dickerson, MD 20842**

VIA FACSIMILE AND FIRST CLASS MAIL

Dear Mrs. Bunnag and Mr. Johnson:

This letter is written as a follow-up to our meeting of March 10, 2006. I apologize for the delay in providing you this letter, but we had a difficult time locating and obtaining a wetland expert.

Please find attached a copy of the estimate and time frame for the wetland determination and report you requested from Mr. Mereos. As can be seen by the attached estimate, it will take a maximum of 11 weeks to obtain the requested plans and reports.

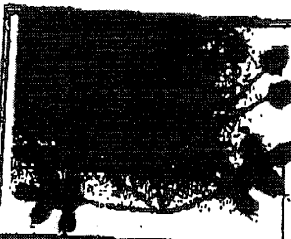
Mr. Mereos is willing to incur the costs and take the measures that the County is requesting. However, before Mr. Mereos incurs these costs, we need assurance from the County that it will not impose a fine on Mr. Mereos. Mr. Mereos emphatically denies that that he cleared 1.9 acres on his property. In fact, I believe that the County can easily determine whether Mr. Mereos' property was cleared before he purchased the property. Therefore, I am requesting that the County provide me a copy of aerial photographs showing Mr. Mereos' property prior to June 26, 2005. I have located an aerial photo from April 7, 2002, showing that Mr. Mereos' property was cleared as of that date. I am attempting to obtain certified copies of aerial photographs from the US government, but surely the County has similar photographs which would show the status of Mr. Mereos' property prior to his purchasing of the property.

I look forward to your prompt response to this letter. In the interim, do not hesitate to call with any further questions or concerns.

Very truly yours,



Shawn C. Whittaker

 <p><b>Woodland Management Services LLC</b>                  26 Brookfield Road                  Pasadena, Maryland 21122-2102</p>	
<p><i>Estimate for Requested Services</i></p>	

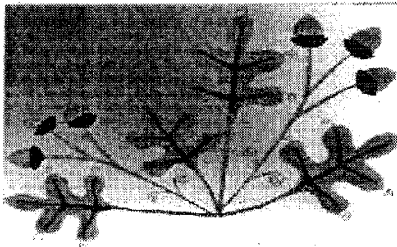
<p><b>Client Name/Address</b></p> <p>Real Estate Surveyors LLC                  Calverton Tower Building                  11875 Beltsville Drive, Suite 150, Beltsv                  Beltsville, MD 20705</p>
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<b>Date</b>	3/21/2006
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<b>Project Name:</b>	
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Description	Total
Wetland Determination, written wetland report, map compilation	2,070.00
Jurisdictional Determination: Application to MD Department of the Environment & US Army Corps of Engineers	810.00
<p>Time Frame: the wetland delineation and report can be completed in 3-5 weeks depending on field conditions. It will require a survey of flags on the perimeter. I will require a copy of the CADD file +/- or assistance printing the map.</p> <p>If a Jurisdictional Determination is needed that will take a another 4-6 weeks for US Army Corps of Engineers to review and approve.</p> <p>Note: quote listed is a maximum figure and may be lower if extensive wetlands are not found.</p>	
<b>Total</b>	<b>\$2,880.00</b>

<b>Phone #</b>	(410) 746-7402	<a href="http://woodlandmgt.com">woodlandmgt.com</a>	<b>Fax #</b>	(410) 437-1056
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# WOODLAND MANAGEMENT SERVICES

## *Earl "Bud" Reaves, Licensed Forester # 336*

After 17 years with the government sector as a forester, I have recently become a Forestry consultant. I served 8 years as the Anne Arundel County Project Forester providing forest management assistance to forest landowners within Anne Arundel County as the Southern Region Urban Forester from October 2001 - June, 2004. In that capacity, I reviewed FCA submittals for the Forest Conservation Act for the Southern Region. I reviewed FCA submittals for state and assisted local jurisdictions with technical advice concerning the Forest Conservation Act, prompt, professional service to requests for assistance. I also write the bi-weekly report for the Anne Arundel County Forestry Board.

I hold the following licenses with the State of Maryland :

Registered Forester # 336; Licensed since 1990

Pesticide Consultant in the categories of Forestry, Right of Way Management, Outside Ornamentals (shade tree care) License # 2820

Licensed Tree Expert # 250.

**Professional Associations:**

**Society of American Foresters, member since 1986**

**Anne Arundel County Forestry Board**

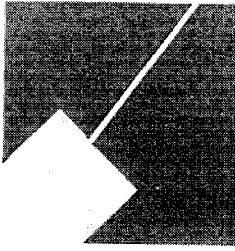
**Maryland Forest Conservancy District Board Executive  
Committee, Southern Region**



## **ATTACHMENT 7**

**March 30, 2006 M-NCPPC Staff Response Letter to Mr. Whittaker**

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, [www.mncppc.org](http://www.mncppc.org)

March 30, 2006

Mr. Shawn C. Whittaker  
Suite 340  
9055 Comprint Court  
Gaithersburg, Maryland 20877-1310

Re: 17900 Trundle Road,  
Dickerson, Md. 20842

Dear Mr. Whittaker:

Staff has received your letter dated March 24, 2006 that you faxed. You indicate in your letter that the wetland consultant that Mr. Mereos may use to delineate wetlands on the site will take 11 weeks to complete the work and submit reports and plans. The delineation of wetlands is only one component of what staff discussed with you, Mr. Mereos, and Mr. Fitzroy Bertrand (Mr. Mereos' surveyor) at our meeting on March 10, 2006.

At the meeting, Mr. Mereos agreed that he would show good faith effort towards repairing the environmental damages resulting from the forest clearing and restoring the site. You and he agreed that you would submit a letter the week after the meeting outlining the items and an estimated schedule for the items that would be needed to work towards the repair and restoration of the site. The items included a plan that would show streams, wetlands, their buffers, previously-existing forest, and current forest (if any) and a plan that would show restoration and reforestation. Staff indicated that streams, wetlands, and buffers would usually require protection through placement of a conservation easement. Staff also indicated that if the restoration plan included a proposed use (such as a house) that would require a septic system, Mr. Mereos would need to document that the Montgomery County Department of Permitting Services had approved the septic system. Staff is skeptical that a septic system can be approved since it appears from existing mapped information and Maryland Department of Environment investigation that the entire site is wetlands.

Staff believes that your March 24<sup>th</sup> letter does not provide the information that was agreed to at the meeting. It only identifies the time frame for a wetlands delineation. There is no commitment to identify all of the environmentally-sensitive areas or to repair and restore the site and protect these areas. The letter does not indicate whether a use is proposed on the site or not. In addition, it should be noted that the consultant who provided the estimate for wetlands delineation work is a licensed forester with experience in forest-related work. However, from the information on his website, he does not appear to have any qualifications or experience in wetlands delineation.

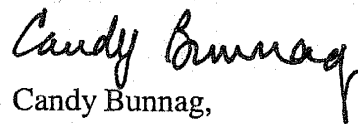
Staff continues to recommend the administrative civil penalty at the rate identified in the Administrative Order for Corrective Action of March 2, 2006. Absent a detailed wetlands delineation for the site, staff bases our evaluation of the extent and coverage of environmentally-sensitive areas on the site (streams, wetlands, buffers) on existing mapped information and the inspection findings of the Maryland Department of Environment (MDE) inspector in his report dated 11/18/2005. The MDE inspector's report states:

"An initial site investigation was completed on 9/23/05 during dry weather conditions and with no representative vegetation remaining to identify because of site grading. A further review of the National Wetlands Inventory Map, Montgomery County Soil Survey, and field analysis completed on 11/17/05 (of soils, vegetation, and hydrology) indicate that Mr. Meroeos' property is indeed a regulated nontidal wetland."

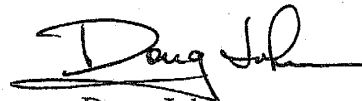
You requested aerial photography for the site. We have attached copies of the 2002 and 2004 aerial photographs from our Geographic Information System (GIS) database for your use. Both show the property as completed forested. We would like to obtain a copy of the April 7, 2002 photograph that you refer to in your letter that shows the property with no forest cover. We would like to determine why there is a discrepancy between the photograph you have the ones in our GIS database.

If you have any questions or would like to meet again, please contact either of us. (Candy at (301)-495-4543 or Doug at (301)-495-4571).

Sincerely,



Candy Bunnag,  
Environmental Planner,  
County-wide Planning Division



Doug Johnsen,  
Lead Inspector,  
M-NCPPC Development Review  
Division

Attachments

cc: John Henderson  
Michele Rosenfeld

## **ATTACHMENT 8**

**April 26, 2006 Letter from Mr. Whittaker**