

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

MARYLAND NATIVE PLANT  
SOCIETY, et al.

Plaintiffs

v.

U.S. ARMY CORPS OF ENGINEERS

Defendant

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Civil Action No. PJM 03-2965

**ORDER**

In accordance with the foregoing Opinion, it is this 23 rd day of July, 2004,

ORDERED:

1. The Motion of Plaintiffs Maryland Native Plant Society et al. [Paper No. 29] for Summary Judgment is GRANTED IN PART and DENIED IN PART;
  - A.) The Motion is GRANTED insofar as this case is REMANDED to Defendant U.S. Army Corps of Engineers for a more complete explanation, consistent with the Court's Opinion, of its decision authorizing the sewer line and road crossing for the Hunters Brooke subdivision, near Indian Head, Charles County, Maryland;
  - B) The Motion is DENIED insofar as it seeks vacatur of said decision of U.S. Army Corps of Engineers or an injunction against construction at the Hunters Brooke site;
  - C) Although the Court does not enjoin construction activities at either the Hunters Brooke or Falcon Ridge sites or at adjacent sites, it should be understood by Intervenor, Hunters Brooke LLC, that it proceeds at its own or risk should this

matter return to this Court and should the Court ultimately decide that the U.S. Army Corps of Engineers acted arbitrarily and capriciously with regard to its decision;

2. The Motion for Summary Judgment of U.S. Army Corps of Engineers [Paper No. 40] is DENIED WITHOUT PREJUDICE;
3. The Motion of Hunters Brooke, LLC [Paper No. 37] is DENIED WITHOUT PREJUDICE; and
4. The Clerk shall REMAND this case to the U.S. Army Corps of Engineers for further proceedings consistent with the Court's Opinion.

July 23, 2004

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/s/  
PETER J. MESSITTE  
UNITED STATES DISTRICT JUDGE