



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

September 7, 2021

Robb Merritt
c/o Ken Eaton
Davis, Bowen, Friedel Inc.
106 N Washington Street
Easton, MD 21601

Re: Agency Interest Number: 85637
Tracking Number: 202060236 and 202062037
Tidal Authorization Number: 21-WQC-0321

Via email: keaton@dbfinc.com
Maria.teresi@usace.army.mil

Dear Mr. Merritt:

Your project did not qualify for approval under the Maryland State Programmatic General Permit (MDSPGP); therefore, a separate review and issuance of the federal permit will be required by the U.S. Army Corps of Engineers. The federal permit is not attached.

Additionally, your project required a Wetlands License to be approved and issued by the Maryland Board of Public Works (BPW). The Wetlands License will be sent to you by the BPW's Wetlands Administrator.

A project that does not qualify for approval under the MDSPGP requires an individual Water Quality Certification (WQC) to be issued by the Maryland Department of the Environment, which is attached. Please take a moment to read and review your WQC to ensure that you understand the limits of the authorized work and all of the general and special conditions.

You should not begin any work until you have obtained all necessary State, local, and federal authorizations. Please contact Matt Wallach at matthew.wallach@maryland.gov or 410-537-3527 with any questions.

Sincerely,

Tammy Roberson
Division Chief
Tidal Wetlands Division



STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER AND SCIENCE ADMINISTRATION
WATER QUALITY CERTIFICATION



21-WQC-0321

EFFECTIVE DATE:
CERTIFICATION HOLDER:
PROJECT LOCATION:

September 7, 2021
Rob Merritt
435 Ginn Lane
Pasadena, MD 21122

UNDER AUTHORITY OF SECTION 401 OF THE FEDERAL WATER POLLUTION CONTROL ACT AND ITS AMENDMENTS AND IN ACCORDANCE WITH §9-313 THROUGH §9-323, INCLUSIVE, OF THE ENVIRONMENT ARTICLE, ANNOTATED CODE OF MARYLAND, THE WATER AND SCIENCE ADMINISTRATION (“ADMINISTRATION”) HAS DETERMINED THAT THE REGULATED ACTIVITY DESCRIBED IN THE REQUEST FOR CERTIFICATION FOR ROBB MERRITT, WILL NOT VIOLATE MARYLAND’S WATER QUALITY STANDARDS, IF CONDUCTED IN ACCORDANCE WITH THE CONDITIONS OF THIS CERTIFICATION AND WITH ALL TERMS AND CONDITIONS OF THIS CERTIFICATION.

THIS CERTIFICATION DOES NOT RELIEVE THE APPLICANT OF RESPONSIBILITY FOR OBTAINING ANY OTHER APPROVALS, LICENSES, OR PERMITS IN ACCORDANCE WITH FEDERAL, STATE, OR LOCAL REQUIREMENTS AND DOES NOT AUTHORIZE COMMENCEMENT OF THE PROPOSED PROJECT. A COPY OF THIS REQUIRED CERTIFICATION HAS BEEN SENT TO THE CORPS OF ENGINEERS. THE CERTIFICATION HOLDER SHALL COMPLY WITH THE CONDITIONS LISTED BELOW.

PROJECT DESCRIPTION

- Construct a 101.3-foot long by 30-foot wide stone groin, construct an 85.3-foot long by 30-foot wide stone groin, and construct an 82.6-foot long by 30-foot wide stone groin;
- Emplace 96-linear feet and a 99-linear feet of low profile stone sand containment sills, and fill and grade with 209 cubic yards of sand and plant with marsh vegetation within 35 feet channelward of the mean high water; Emplace 184 linear feet of low profile stone sand containment sill on the east side of the property, and fill and grade with 91 cubic yards of sand and plant with marsh vegetation within 35 feet channelward of the original mean high water line;
- Emplace 150 linear feet of stone revetment within a maximum of 38 feet channelward of the mean high water line;
- Emplace 30 linear feet of stone revetment within 15 feet channelward of the mean high water line.
- Construct 176 linear feet of replacement bulkhead within 1.5 feet channelward of an existing bulkhead;
- Remove an existing pier, 575 square feet of existing platform, and piles and reconfigure by installing:
 - 20-foot long by 4-foot wide gangway,
 - 121-foot long by 6-foot wide floating pier,
 - 40-foot long by 5-foot wide floating platform,

- 70-foot long by 5-foot wide “L” floating platform,
 - 13-foot by 14-foot boat lift with associated piles,
 - Two PWC lifts,
- All extending a maximum of 136.1 feet channelward of the mean high waterline.

GENERAL CONDITIONS

- A. This Certification does not obviate the need to obtain required authorizations or approvals from other State, federal or local agencies as required by law.

Statement of Necessity for Condition: The condition is necessary to ensure that water quality standards are met under unique circumstances for discharges which may otherwise qualify under the certified Nationwide Permits.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.08.02.06; COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.23.02.06

- B. This Certification does not authorize any injury to private property, any invasion of rights, or any infringement of federal, state, or local laws or regulations.

Statement of Necessity for Condition: The condition is necessary to clarify the scope of this certification to ensure compliance with water quality regulations, without limiting restrictions through other requirements.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08, COMAR 26.08.02.10E; COMAR 26.23.02.06; COMAR 26.17.04; COMAR 26.23; COMAR 26.24

- C. The Certification Holder shall allow authorized representatives of the Department access to the site of authorized activities during normal business hours to conduct inspections and evaluations of the operations and records necessary to assure compliance with this Certification.

Statement of Necessity for Condition: Conditions of certification involve precise actions to comply with water quality standards. Site inspection may be necessary to ensure that limits, methods, and other requirements are met to ensure that water quality standards are met and designated uses are maintained.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.24; COMAR 26.17.04

- D. This Certification is valid for the project identified herein and the associated U.S. Army Corps of Engineers authorization until such time that it expires or is not administratively extended.

Statement of Necessity for Condition: This condition is necessary to qualify the period of applicability of the terms and conditions of this Certification to be protective of Maryland water quality standards.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; 40 C.F.R. 121, 15 C.F.R. 930, Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.24

SPECIAL CONDITIONS

- A. The Certificate Holder shall construct the mitigation/marsh establishment area in accordance with the following conditions:
- a. The Certificate Holder shall use clean substrate fill material, no more than 10% of which shall pass through a standard number 100 sieve.
 - b. The marsh establishment area shall be planted within one year following completion of the filling operation.
 - c. The marsh establishment project shall be maintained as a wetland, with non-nuisance species' aerial coverage of at least 85% for three consecutive years. If 85% coverage is not attained, the reasons for failure shall be determined, corrective measures shall be taken, and the area shall be replanted.
 - d. If the fill is graded hydraulically, the Certificate Holder shall use a turbidity curtain around the perimeter of the instream work.
 - e. If the existing bank is to be cleared or graded:
 - i. The Certificate Holder shall perform all work under and in accordance with an approved Soil Erosion and Sediment Control Plan from the applicable sediment and erosion control agency; and
 - ii. The Certificate Holder shall perform all work under and in accordance with the Critical Area requirements of the local jurisdiction in the form of an approved Buffer Management Plan.

Statement of Necessity: Stabilization of the site with vegetation is required to ensure that waters continue to meet designated uses. Loss of substrate fill material and use of material exceeding limits of the condition may result in discharges which reduce water quality and interfere with designated uses, including the support of estuarine and marine aquatic life, and the protection of shellfish harvesting, shallow water submerged aquatic vegetation, and migratory fish spawning and nurseries in tidal wetlands. Additionally, the issuance of the water quality certification does not relieve the applicant of their responsibility to comply at all times with federal and State law.

Citation: 1) 26.08.02.02.B.(3) 2) 26.08.02.03-3.C.(2)d.(5) 3) 26.08.02.03.A(1)(b) 4) 26.08.02.03.B(1-5) 5) 26.08.02.10E(2); 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.24

- B. The Licensee shall accept the terms of the attached marsh maintenance plan by signing and returning the standard plan to the Water and Science Administration, Tidal Wetlands Division prior to commencement of any work authorized under this License. If the Licensee wishes to propose an alternative marsh maintenance plan, the alternative plan must be submitted to and approved by the Tidal Wetlands Division, Water and Science Administration, prior to commencement of any work authorized under this License. Any alternative plan must provide assurances of success that are at least equivalent to those of the standard plan, in terms of the extent of native marsh plant coverage, elimination of invasive species and timeframe for plant establishment.

Statement of Necessity: Stabilization of the site with vegetation is required to ensure that waters continue to meet designated uses. Loss of substrate fill material may result in discharges which reduce water quality and interfere with designated uses, including the support of estuarine and marine aquatic life, and the protection of shellfish harvesting, shallow water submerged aquatic vegetation, and migratory fish spawning and nurseries in tidal wetlands. Loss limits will maintain the designated use.

Citation: 1) COMAR 26.08.02.02.B.(3) 2) COMAR 26.08.02.03-3.C.(2)d.(5); 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.24

- C. The Certificate Holder shall submit photographs on an annual basis for the first five growing seasons to the Tidal Wetlands Division, Water and Science Administration in order to document the success of the project in terms of the extent of native marsh plant coverage. Photographs shall be taken from at least two directions, as necessary to fully depict the living shoreline.

Statement of Necessity: Stabilization of the site with vegetation is required to ensure that waters continue to meet designated uses. Loss of substrate fill material may result in discharges which reduce water quality and interfere with designated uses, including the support of estuarine and marine aquatic life, and the protection of shellfish harvesting, shallow water submerged aquatic vegetation, and migratory fish spawning and nurseries in tidal wetlands. Loss limits will maintain the designated use.

Citation: 1) COMAR 26.08.02.02.B.(3) 2) COMAR 26.08.02.03-3.C.(2)d.(5); 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.24

- D. The Certificate Holder shall design and construct the stone revetment to prevent the loss of fill material to waters of the State of Maryland.

Statement of Necessity: Loss of fill material may result in violations of water quality due to turbidity and other alterations which interfere with designated uses as well as a designated use class for support of estuarine and marine aquatic life, and support of designated uses for growth and propagation of fish, shallow water submerged vegetation, other aquatic life, and wildlife. Loss limits will maintain the designation use.

Citation: Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.24; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.08.02.06; COMAR 26.17.04; COMAR 26.23; COMAR 26.23.02.06; 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.24

- E. The Certificate Holder shall not use asphalt rubble in the revetment. Filter cloth shall be placed between the riprap and the soil. Prior to emplacement of the revetment, all rebar is to be cut off flush with the concrete. After emplacement of the revetment, any rebar exposed as a result of the concrete breaking during the emplacement is to be cut flush with the concrete. Except for the larger material placed along the leading edge of the revetment, the concrete shall be broken prior to emplacement so that random sized interlocking pieces are formed.

Statement of Necessity: Proper placement and alignment of the discharge material will maintain habitat and maintain designated uses for support of estuarine and marine aquatic life and support of designated uses for growth and propagation of fish, other aquatic life, and wildlife.

Citation: Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.24; COMAR 26.08; COMAR 26.08.02.02B(1)(d); COMAR 26.08.02.02B(3); COMAR 26.08.02.03B(1)(b); COMAR 26.08.02.02B(2); COMAR 26.08.02.10E.(2); COMAR 26.24; 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.24

- F. The Certificate Holder shall complete construction of the bulkhead prior to filling behind the bulkhead. The bulkhead shall be designed and constructed to prevent the loss of fill material to waters of the State of Maryland. Only clean fill, which is free of organic, toxic, contaminated, or deleterious materials, shall be used.

Statement of Necessity: Loss of fill material may result in violations of water quality due to turbidity and other alterations which interfere with designated uses as well as a designated use class for support of estuarine and marine aquatic life, and support of designated uses for growth and propagation of fish, shallow water submerged vegetation, other aquatic life, and wildlife. Loss limits will maintain the designation use.

Citation: Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.24; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.08.02.06; COMAR 26.17.04; COMAR 26.23; COMAR 26.23.02.06; 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.24

CERTIFICATION APPROVED



D. Lee Currey, Director
Water and Science Administration

Date 9/7/2021

Tracking Number: 202060236 and 202062037
Agency Interest Number: 85637

Effective Date: September 7, 2021

cc: WSA Inspection & Compliance Program
Army Corps of Engineers