

Ben Grumbles, Secretary Horacio Tablada, Deputy Secretary

February 22, 2021

Isabel Baynes c/o Wesley Gould Maryland Department of Natural Resources 580 Taylor Ave, E-2 Annapolis, MD 21401 Via email: Wesley.Gould@maryland.gov

> Re: Agency Interest Number: 72712 Tracking Number: 202060046 Tidal Authorization Number: 20-WQC-0055

Dear Isabel Baynes:

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. <u>The federal permit is not attached.</u>

Additionally, your project required a General Tidal Wetlands License to be approved and issued by the Maryland Department of Environment (MDE). <u>The General License will be sent to you by MDE's</u> Wetlands and Waterways Program.

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 Heather Hepburn at 410-537-3789 with any questions.

Sincerely,

Danielle Spendiff, Chief Western Region Tidal Wetlands Division



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



20-WQC-0055

EFFECTIVE DATE:	February 22, 2021
CERTIFICATION HOLDER:	Isabel Baynes
ADDRESS:	1025 Bowleys Quarters Road
	Middle River, MD 21220
PROJECT LOCATION:	1025 and 1047 Bowleys Quarters Road
	Middle River, MD 21220
	Seneca Creek in Baltimore County

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 MARYLAND DEPARTMENT OF THE ENVIRONMENT, WATER AND SCIENCE ADMINISTRATION HAS DETERMINED THAT THE REGULATED ACTIVITIES DESCRIBED IN THE REQUEST FOR CERTIFICATION FOR THE PROPOSED ISABEL BAYNES LIVING SHORELINE AND AS DESCRIBED IN THE ATTACHED PLAN SHEETS DATED APRIL 24, 2020 AND ANY SUBSEQUENT MODIFICATIONS APPROVED BY THE DEPARTMENT WILL NOT VIOLATE MARYLAND'S WATER QUALITY STANDARDS, IF CONDUCTED IN ACCORDANCE WITH THE 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

1. Construct a 450-linear foot low profile stone, sand containment sill; and fill and grade with 150 cubic yards of sand and 33.51 cubic yards of Coir log along 450 linear feet of eroding shoreline and plant with approximately 3,150 square feet of marsh vegetation, all extending a maximum 14-feet channelward from the mean high water line.

GENERAL CONDITIONS

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

<u>Statement of Necessity for Condition</u>: 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.

<u>Citation:</u> 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 26.24; COMAR 26.23.02.06

2. 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.

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

<u>Citation:</u> 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 26.24

3. 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.

<u>Statement of Necessity for Condition</u>: 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.

<u>Citation:</u> 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 26.24;

4. This Certification is valid for the project identified herein and the associated U.S. Army Corps of Engineers authorization NAB-2020-60046 until such time that it expires or is not administratively extended.

<u>Statement of Necessity for Condition:</u> 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.

<u>Citations:</u> 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 26.24

SPECIAL CONDITIONS

1. Any subsequent modifications to the authorized project shall meet Maryland's criteria which requires living shorelines to be dominated by tidal wetland vegetation and includes at least a 2:1 ratio of tidal wetland vegetation to stone containment structures. This criteria is required in order to provide wetlands in accordance with the Living Shoreline Protection Act of 2008 that requires that improvements to project a person's property against shoreline erosion consist of marsh creation or other nonstructural shoreline stabilization measures.

<u>Statement of Necessity:</u> Tidal wetlands provide essential aquatic and terrestrial habitat, trap sediment, filter pollutants, store nutrients, control shoreline stabilization, and improve water quality. Reduction of project design criteria may result in conditions that reduce the benefits associated with tidal wetlands, including improvement of water quality by reducing turbidity; and discharges that interfere with the designated use, 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.

<u>Citations:</u> 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 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; Md. Ann. Code, Env. Article, Title 16, Subtitle 2, Section 16-201; COMAR 26.08; COMAR 26.08.02.02.B.(3); COMAR 26.08.02.03-3.C.(2)d.(5); COMAR 26.08.02.03.B.(1)(b); COMAR 26.08.02.03.B.(2)(e); COMAR 26.08.02.02.B.(1)(d); COMAR 26.24: COMAR 26.24.04.01.-03.; COMAR 26.24..01.02(B)(35-1)

- 2. The Certificate Holder shall construct the 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.

<u>Statement of Necessity for Condition:</u> 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.

<u>Citations:</u> 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 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; Env. Article, Title 4, Subtitle 1; COMAR 26.08; COMAR 26.08.02.02.B.(3); COMAR 26.08.02.03-3.C.(2)d.(5); COMAR 26.08.02.03.A.(1)(b); COMAR 26.08.02.03.B.(1)-(5); COMAR 26.08.02.10.E.(2); COMAR 26.24; COMAR 26.17.01

2. The Licensee 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.

<u>Statement of Necessity for Condition:</u> 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.

<u>Citations:</u> 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 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.02.B.(3); COMAR 26.08.02.03-3.C.(2)d.(5); COMAR 26.24

3. The Certificate Holder 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 Certification. If the Certificate Holder 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 Certification. 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.

<u>Statement of Necessity for Condition:</u> 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.

<u>Citations:</u> 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 9, Subtitle 3; Md. Ann.

Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.02.B.(3); COMAR 26.08.02.03-3.C.(2)d.(5); COMAR 26.24

4. The Licensee shall plant the existing *Phragmites* area depicted on the existing plans dated April 24, 2020 with *Spartina alternaflora* and *Spartina patens*.

<u>Statement of Necessity for Condition:</u> Tidal wetlands provide essential habitat, store nutrients and sediment, maintain the health of coastal systems, control shoreline stabilization, and improve water quality. Aquatic life and wildlife often require specific habitats. A tidal plant community dominated by non-native vegetation may reduce the benefits associated with tidal wetlands and result in discharges that interfere with the designated use, 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.

<u>Citations:</u> 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 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.02.B.(3); COMAR 26.08.02.03-3.C.(2)d.(5); COMAR 26.08.02.03.B.(1)(b); COMAR 26.08.02.03.B.(2)(e); COMAR 26.08.02.02.B.(1)(d); COMAR 26.24

CERTIFICATION APPROVED

D. Lee Currey, Director

Water and Science Administration

Tracking Number: 202060046 Agency Interest Number: 72712

Effective Date: February 22, 2021

Enclosure: Plan Sheets dated April 24, 2020

cc: WSA Inspection & Compliance Program Army Corps of Engineers 2/25/2021

Date



Ben Grumbles, Secretary Horacio Tablada, Deputy Secretary

MARSH MAINTENANCE PLAN

Agency Interest Number: 72712/202060046 Tidal Wetlands License Number: 20 - wqc - 0055 Licensee Name: Isabel Baynes License Effective Date: February 22, 2021 Address: 1025 Bowleys Quarters Rd Middle River, MD 21220 Baltimore County

*Please sign and date this Marsh Maintenance Plan and return to the address below no later than April 23, 2021

Preparation: All areas that are to be planted shall be cleaned of rough grass, weeds, and debris and the ground surface filled and graded to the elevations specified on the plans.

Planting: The living shoreline will be planted during the planting season for wetland sprigging which is between April 1 and June 30 or between September 1 and October 30. The mean high water (MHW) lines will be marked on the ground and the plantings shall be made in rows parallel to the MHW line extending to the limits on the construction plans. Rows shall be 18 inches apart and plants 18 inches apart. Plantings shall be made by hand with dibble, spade or shovel by opening a hole at the planting site, placing the fertilizer and then the plant in the hole, closing the hole and firming the soil around the plant so that the surface soil level is .5 to 1 inch above the top of the planting pot root mass. If the soil at the planting site is not wet or damp, the plants shall be sufficiently watered within 4 hours after planting.

Protection: Immediately upon completion of the planting operation, the planting area shall be protected against wildlife and human traffic by erecting goose exclusion fencing and Blaze Orange Fence (BOF) at the top of the slope and along the sides of the planted area.

Plant Establishment: A healthy stand of wetland vegetation is defined as 85% aerial coverage of the original planted area by native wetland vegetation (e.g., planted species and volunteer native species). A healthy stand of wetland vegetation shall be established within 1 year of planting and shall be maintained for at least 3 consecutive years thereafter. The licensee is responsible for making sure the planted area is maintained by eradicating non-native nuisance species (e.g., Phragmites), and protecting areas from human traffic and wildlife predators. If a healthy stand of wetland vegetation is not established within one year after planting, the limiting factors will be identified and addressed and the area will be replanted as necessary.

www.mde.maryland.gov

<u>Marsh Monitoring Reports</u>: Brief, annual Marsh Monitoring Reports will be submitted to the address below for 5 years by the dates below, *regardless of the whether or not the project is completed or a healthy stand of wetland vegetation is obtained.* The Marsh Monitoring Report may be brief and should include the following information, at a minimum:

- State Agency Interest number, Tidal Wetlands License number, and site address (listed above)
- Date of inspections
- Project completion date. If the project has not yet been completed, please indicate the current status of the project and disregard the remaining requirements.
- Estimation of percent plant coverage by the dominant species. This should show the percent coverage of native and non-native wetland plant species. If 85% coverage by native species is not obtained, please indicate the limiting factors to plant growth, and what steps will be taken to meet the 85% coverage requirement.
- Identification of factors limiting establishment or maintenance of a healthy stand of wetland vegetation and identify the maintenance activities necessary to mitigate the resulting stress. For example, if non-native, invasive species (such as Phragmites) have emerged and begun to crowd out the planted or volunteer native species, the invasive species should be physically removed or chemically controlled. If geese are predating the plants, goose exclusion fence should be erected.
- Photographs showing the current condition of the project

This 5-year monitoring period may be extended at MDE's discretion in the event replacement plantings are required.

The annual Marsh Monitoring Report should be submitted to the address below on or before the following dates:

1-Year Report:	February 22, 2022
2-Year Report:	February 23, 2023
3-Year Report:	February 23, 2024
4-Year Report:	February 22, 2025
5-Year Report:	February 22, 2026

ACCEPTANCE OF MARSH MAINTENANCE PLAN

The applicant acknowledges that he/she has read and understands this Marsh Maintenance Plan and agrees to submit annual Marsh Monitoring Reports on or before the above due dates.

Signature of Licensee

Date

PLEASE SIGN, DATE AND RETURN THIS COPY OF THE MARSH MAINTENANCE PLAN TO:

MARYLAND DEPARTMENT OF THE ENVIRONMENT WATER AND SCIENCE ADMINISTRATION WETLANDS AND WATERWAYS PROGRAM **TIDAL WETLANDS DIVISION** (Signed Marsh Maintenance Plan) C/O <u>Heather Hepburn</u> (Annual Marsh Monitoring Reports) C/O Tidal Wetlands Division 1800 WASHINGTON BLVD. BALTIMORE, MD 21230-1708 (or via e-mail to <u>TidalMMP.mde@maryland.gov</u>)





MAXIMUM FETCH: 0.25 MILES (NORTH)

20-WQC-0055 202060046 72712 4/24/2020 ABJ

PROPOSED PROJECT FOR: ISABEL BAYNES & STEPHANIE BAYNES 1025 BOWLEYS QUARTERS ROAD BALTIMORE, MD 21220-4014

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MAXIMUM FETCH	PG. 2 OF 5

TYPE OF PROJECT: LIVING SHORELINE





