



**U.S. Army Corps  
of Engineers**

Baltimore District  
PN-23-05

# Public Notice

**In Reply to Application Number  
NAB-2022-61087-M51 (Tilghman on Chesapeake  
Community Association Living Shoreline)**

Comment Period: February 16, 2023 to March 18, 2023

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**THE PURPOSE OF THIS PUBLIC NOTICE IS TO INFORM INTERESTED PARTIES OF THE PROPOSED ACTIVITY AND TO SOLICIT COMMENTS. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED AT THIS TIME.**

This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344), as described below:

**APPLICANT:**

Tilghman on the Chesapeake Community Association  
c/o Ian V. Jones  
P.O. Box 432  
Tilghman, MD 21671

**WATERWAY AND LOCATION OF THE PROPOSED WORK:**

The proposed work is located in Harris Creek, at Black Walnut Point Road, Tilghman, Talbot County, Maryland. (Project: Latitude 38.705011; Longitude -76.336118)

**OVERALL PROJECT PURPOSE:**

To provide shoreline erosion protection and to establish/enhance marsh habitat at Tilghman on Chesapeake Community Association, Tilghman, Talbot County, Maryland.

**PROJECT DESCRIPTION:**

The applicant proposes, in accordance with the attached plans, to stabilize a total of approximately 612 linear feet of eroding shoreline using a living shoreline design, all within an approximately 29,156 square foot (sf) (0.67 acres) impact area as follows: to emplace 612 linear feet of low-profile stone containment sill averaging 19-feet (ft) wide at the base with (5) five 5-ft wide tidal flushing vents, and to deposit approximately 2,578 cubic yards (12,802 sf) of sloped, clean select sand fill stabilized with 7,327 sf of *Spartina patens* and 5,475 sf as unplanted supplemental sand (within proposed

embayments); all to extend a maximum of 90 ft channelward of the approximate mean high-water shoreline. A total of 27 oyster break structures measuring 5- to 2.4-ft wide would be installed within 3 sill vents. Approximately 2,578 cubic yards of sand is proposed as fill to be graded between the existing marsh edge and stone sills. The temporary access path as proposed would impact approximately 2,400 sf of existing tidal marsh vegetation. Please refer to the table below for a summary of aquatic resource impacts.

**EFFECTS ON AQUATIC RESOURCES:**

Proposed Activity	Aquatic Resource Impact (sf)	Aquatic Resource Type	Authority
Stone Sill	9,600	Open Water	Section 10/404
Sand fill, unplanted	5,475	Open Water	
Sand fill, planted with high marsh	7,327	Open Water	
Marsh Access (Temporary)	2,400	Vegetated tidal wetlands	

**LEAD FEDERAL AGENCY:**

The United States Army Corps of Engineers, as the lead federal agency, is responsible for all coordination pursuant to applicable federal authorities.

**APPLICANT'S PROPOSED AVOIDANCE, MINIMIZATION, AND COMPENSATORY MITIGATION:**

As part of the planning process for the proposed project, steps were taken to ensure avoidance and minimization of impacts to aquatic resources to the maximum extent practicable based on the existing site conditions.

The project shoreline is situated off Harris Creek with an approximately 20-mile-wide fetch exposure and the existing estuarine marsh is eroding at approximately 1-ft per year. The applicant has minimized the channelward extent of proposed fill/structures to the maximum extent practical to reduce impacts to existing tidal wetlands. The total channelward encroachment of 90-ft is the minimum necessary to dampen approaching wave energy and protect existing and proposed low/high marsh zones without impacting mapped submerged aquatic vegetation (SAV). All proposed impacts to existing tidal marsh would be temporary and related to construction access using temporary matting emplaced within wetland areas to minimize rutting and soil compaction. Temporarily

disturbed areas would be restored to preexisting conditions/wetland elevations and vegetated with native marsh plantings upon completion of the shoreline stabilization project.

No compensatory mitigation is proposed. No wetlands would be permanently impacted as a result of the proposed project. No SAV is proposed to be impacted based on the Corps review of SAV mapping data available from the Virginia Institute of Marine Sciences for the most recent 5 years of mapped coverage data (2017-2021).

The project upon completion would result in a net gain of vegetated tidal wetlands by approximately 7,327 sf.

#### **CORPS EVALUATION REQUIREMENTS:**

This project will be evaluated pursuant to Corps Regulatory Program Regulations (33 CFR Parts 320-332). The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonable may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economic, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, and consideration of property ownership and in general, the needs and welfare of the people. The evaluation of the impact of this project will also include application of the Clean Water Act Section 404(b)(1) Guidelines promulgated by the Administrator, United States Environmental Protection Agency.

#### **ENDANGERED SPECIES:**

A preliminary review of this application indicates that the proposed work will have no effect federally listed threatened or endangered species or their critical habitat, pursuant to Section 7 of the Endangered Species Act, as amended. The project site has been mapped as migrating and foraging habitat for juvenile, subadult and adult Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*); overwintering habitat and migrating and foraging habitat for adult shortnose sturgeon (*Acipenser brevirostrum*); and migrating and foraging habitat for adult and juvenile Green sea turtle (*Chelonia mydas*), Kemp's ridley sea turtle (*Lepidochelys kempii*), Leatherback sea turtle (*Dermochelys coriacea*),

and Loggerhead sea turtle (*Caretta caretta*). The project activities are proposed in tidal water less than 3 feet below mean high water. The project location and vicinity are not mapped as critical habitat for any known federally listed threatened or endangered species under United States Fish and Wildlife Service's jurisdiction. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

#### **ESSENTIAL FISH HABITAT:**

The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH), including species of concern, life cycle habitat, or Habitat Areas of Particular Concern. The project site lies in or adjacent to EFH as described under MSFCMA designated in Harris Creek for little skate, Atlantic herring, red hake, windowpane flounder, winter skate, clearnose skate, bluefish, and summer flounder; all managed species under the MSFCMA. The Baltimore District has made a preliminary determination that the project will not have a substantial adverse effect on EFH. The Baltimore District has made a preliminary determination that mitigative measures are not required to minimize adverse effects on EFH at this time. This determination may be modified if additional information indicates otherwise.

#### **HISTORIC RESOURCES:**

Pursuant to Section 106 of the National Historic Preservation Act of 1966 and applicable guidance, the Corps has reviewed the latest published version of the National Register of Historic Places and initially determined that no registered properties listed as eligible for inclusion, therein, are located at the site of the proposed work. The Corps has made the preliminary determination that the proposed project has no potential to cause effects on historic properties. The Corps final eligibility and effect determination will be based on coordination with the State Historic Preservation Office as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps' identified permit area.

#### **TRIBAL RESOURCES:**

Section 106 of the National Historic Preservation Act also requires federal agencies to consult with federally recognized American Indian tribes that attach religious and cultural significance to historic properties that may be affected by the agency's undertaking. Corps Tribal Consultation Policy mandates an open, timely, meaningful,

collaborative, and effective deliberative communication process that emphasizes trust, respect, and shared responsibility. The policy further emphasizes that, to the extent practicable and permitted by law, consultation works toward mutual consensus and begins at the earliest planning stages before decisions are made and actions taken. The Corps final eligibility and effect determination will be based on coordination with interested tribes, in accordance with the Corps current tribal standard operating procedures as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on tribal resources.

#### **MODIFICATION OF CIVIL WORKS PROJECTS: 33 USC 408 (SECTION 408):**

All Section 408 proposals will be coordinated internally at USACE. The Section 408 decision will be issued along with the Section 404 and/or Section 10 decision. Please see the following link for more information regarding Section 408:

<https://www.nab.usace.army.mil/Missions/Regulatory/Section-408-Requests/>.

#### **WATER QUALITY CERTIFICATION:**

The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act.

#### **COASTAL ZONE MANAGEMENT PROGRAMS:**

Where applicable, the applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with the approved Coastal Zone Management Program. By this public notice, we are requesting the state concurrence or objection to the applicant's consistency statement.

The applicant must obtain any state or local government permits which may be required.

#### **SUBMISSION OF COMMENTS:**

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental

Impact Statement pursuant to the National Environmental Policy Act. Comments provided will become part of the public record for this action and are subject to release to the public through the Freedom of Information Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the United States Army Corps of Engineers, Baltimore District within the comment period specified above through postal mail at the address below or electronic submission to the project manager email address below. Written comments should reference the Application Number NAB-2022-61087-M51 in the letter or in the subject line of the email.

#### **PUBLIC HEARING REQUESTS:**

Any person who has an interest which may be adversely affected by the issuance of this permit may request a public hearing. The request, which must be in writing, must be received within the comment period as specified above to receive consideration. Also, it must clearly set forth the interest which may be adversely affected by this activity and the manner in which the interest may be adversely affected. The public hearing request may be submitted by electronic mail or mailed to the following address:

Megan Spindler  
[megan.l.spindler@usace.army.mil](mailto:megan.l.spindler@usace.army.mil)  
U.S. Army Corps of Engineers, Baltimore District  
Regulatory Branch  
2 Hopkins Plaza  
Baltimore, MD 21201

It is requested that you communicate this information concerning the proposed work to any persons known by you to be interested, who did not receive a copy of this notice.

General information regarding the Corps' permitting process can be found on our website at <https://www.nab.usace.army.mil/Missions/Regulatory.aspx>. This public notice has been prepared in accordance with Corps implementing regulations at 33 CFR 325.3. If you have any questions concerning this specific project or would like to request a paper copy of this public notice, please contact Megan Spindler, [megan.l.spindler@usace.army.mil](mailto:megan.l.spindler@usace.army.mil), 410-962-1894. This public notice is issued by the Chief, Regulatory Branch.