U.S. Army Corps
Of Engineers
Norfolk District

Fort Norfolk, 803 Front Street
Norfolk, Virginia 23510-1011

DEPARTMENT OF THE ARMY PERMIT

Permittee: **Mathews County**
Permit No.: **NAO-2021-01953 / VMRC# 21-V1533**
Issuing Office: **U.S. Army Corps of Engineers Norfolk District Regulatory Branch (CENAO-WR-R)**

Note: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below pursuant to:

- ☒ Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- ☒ Section 404 of the Clean Water Act (33 U.S.C. 1344).
- ☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

Project Description:

You are hereby authorized to: dredge 5,709 linear feet (18.8 acres) of waters located within Hole in the Wall Channel; deposit the dredged material along 2,400 linear feet (7.7 acres) of shoreline at Haven Beach behind an expanded breakwater system; and construct a 50-foot extension of an existing 100-foot breakwater as well as three (3) additional breakwaters measuring 230 feet long by 30 feet wide with a maximum channelward encroachment of 203 feet from MHW, for the purpose of establishing safe navigation for vessels utilizing Milford Haven and the adjacent Chesapeake Bay and to enhance long-term shore protection and coastal resiliency at Haven Beach, in accordance with the attached permit application drawings entitled “Hole in The Wall, Mathews County, Virginia” and “Haven Beach, Mathews County, Virginia,” and dated November 19, 2021 (sheets 1 through 12).

Project Location: HITW 37.4678, -76.2636; HB 37.4351, -76.2528
Hole-in-the-Wall (HITW) Channel is located in Mathews County, Virginia, south of Sandy Point in the southeastern portion of Gwynn’s Island and connects eastern Milford Haven to the western Chesapeake Bay (dredging to occur between 52+73 and 132+47). Approximately 2.5 miles south of HITW Channel is Haven Beach (also known as Festival Beach), located at the end of Haven Beach Road (Route 643), off and east of Old House Woods Road (Route 704) in Mathews County, Virginia.

Project Specific Special Conditions:

1. Prior to the commencement of any work authorized by this permit, you shall advise the project manager, Emily Brooks, in writing at: Norfolk District, Corps of Engineers, 803 Front Street, Norfolk, VA 23510-1011, at least two weeks in advance of starting work authorized by this permit. Alert the project manager of the anticipated start date of the authorized activity and the name and telephone number of all contractors or other persons performing the work. A copy of this permit and drawings must be provided to the contractor and kept on site at all times, available to any regulatory representative during an inspection of the project site.

2. The time limit for completing the work authorized ends on September 2, 2032. Should you be unable to complete the authorized activity in the time limit provided, you must submit your request for a time extension to this office for consideration at least one month before the permit expiration date. Dredging authorization shall not exceed ten years (33 CFR 325.6(e)).

3. Enclosed is a “compliance certification” form, which must be signed and returned within 30 days of completion of the project, including any required mitigation. Your signature on this form certifies that you have completed the work in accordance with the permit terms and conditions.

4. Destruction or alteration of waters of the U.S (including wetlands) other than those impacts authorized under this permit are prohibited. The extent of authorized waters impacts is depicted on the drawing entitled “Hole in The Wall, Mathews County, Virginia” and “Haven Beach, Mathews County, Virginia,” and dated November 19, 2021 and Corps date stamped as received on November 23, 20221.

5. To ensure compliance with the Department of the Army authorization and the Endangered Species Act, the permittee is responsible for implementing and complying with all of the terms and conditions of the Biological Opinion (B.O.) provided by the U.S. Fish and Wildlife Service regarding the Northeastern Beach Tiger Beetle. The terms and conditions of the B.O. include the “REASONABLE AND PRUDENT MEASURES” (1-2), “TERMS and CONDITIONS” (1-5), and the “MONITORING AND REPORTING REQUIREMENTS” (1-4). The permittee is not required to fulfill the “CONSERVATION RECOMMENDATIONS”. The permittee is also required to copy the Corps when submitting the required reports and notifications, per the Terms and Conditions of the B.O., to the U.S. Fish and Wildlife Service.

6. When the work authorized herein includes periodic maintenance dredging, it may be performed under this permit until September 2, 2032. You must advise this

office in writing, at least two weeks before you start maintenance dredging activities under the authority of this permit.

7. Prior to commencing maintenance dredging activities under the authority of this permit, which shall not exceed ten years from the date of permit issuance, you must provide the Corps with revised project drawings of the proposed dredging area for approval. You may not begin work associated with the maintenance dredging activities until you have received written approval from the Corps.

8. This permit does not authorize any double handling of dredge material in waters and/or wetlands.

9. No dredging may begin until an on-site pre-dredging conference is held to ensure all affected parties fully understand the requirements of the permit, and to inspect the disposal site(s). This meeting will be held prior to the start of dredging, but after the disposal site(s) have been prepared and all erosion and sediment controls are in place. This meeting must be attended by you or your representative, the contractor, the contractor's foreman, VDEQ and Emily Brooks, the Corps project manager for your permit. To arrange this meeting, contact Ms. Brooks at (757) 201-7048 at least 15 days prior to the proposed meeting date. The dewatering area, disposal site and erosion and sediment controls must be in compliance with the permitted plans prior to commencement of dredging.

10. Prior to the pre-dredging conference, the channels must be staked on the centerline and the edges (toe ranges).

11. The enclosed drawings indicated a project depth of -6 feet at mean low low water (MLLW) within the proposed channel with a one-foot allowable over depth for a total permitted depth of -7 feet MLLW. You are authorized to dredge to a permitted depth of -7 feet at mean low water, per the enclosed drawings entitled "Hole in The Wall" dated November 19, 2022 and Corps date stamped as received November 23, 2022. This permitted depth includes any advance maintenance, allowable over depth and/or margin of error, and must not be exceeded to be in compliance with this permit. Exceeding the project depths shown on the drawings will be considered a violation of the terms and conditions of this permit. To ensure permit compliance, if you contract for this work, the terms of the agreement should not require dredging depths that exceed the permitted depths.

12. Barges and scows used to transport dredge material may be filed only to a point where no overflow occurs. No overflow pipes are allowed.

13. Within 30 days of completion of dredging, an after-dredge hydrographic survey, prepared by a state-certified engineer or surveyor, must be provided to the Corps. The hydrographic survey should reference a local tidal or geodetic datum.

14. This permit does not authorize any dredging in waters between June 1 and September during the initial maintenance cycle, or between May 1 and September 15 of any year for each subsequent maintenance cycle to minimize impacts on habitat areas of particular concern (HAPC) for sandbar sharks.

15. If you discover any previously unknown historic, cultural, or archaeological remains and artifacts while accomplishing activities authorized by this permit, you must immediately stop work and notify the Corps of what has been found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The Corps will initiate Federal, Tribal, and State coordination required to determine if the items 18-RP-02 16 or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

16. Excess excavated material not used as beach nourishment will be placed on an upland site and stabilized to prevent its return to the waterway.

17. You must install and maintain, at your expense, any safety lights and signals prescribed by the Unites States Coast Guard (USCG), through regulations or otherwise, on your authorized facilities. The USCG may be reached at the following address and telephone number: Commander (DPW), fifth Coast Guard District, 431 Crawford Street, Portsmouth, VA, 23704-5004, ATTN: Mr. Douglas Simpson. Mr. Simpson may be contacted via telephone at (757) 398-6346 or via email at Douglas.C.Simpson@uscg.mil.

18. The contractor must notify the United States Coast Guard Fifth Coast Guard District office two (2) weeks prior to the beginning of the dredging operation with pertinent information so it can be included in the Local Notice to Mariners (LNM). This request can be done either via email, letter, or fax to the following mailing address: Commander (dpw), Fifth Coast Guard District, 431 Crawford Street, Room 100, Portsmouth, VA 23704-5504, ATTN: Chris Scraba; Email: Chris.P.Scraba@uscg.mil; or Fax number: 757-398-6303.

19. If a project specific condition of this permit cannot be met, then you must apply for a permit modification. Any proposed permit modification will be coordinated with the Virginia Department of Environmental Quality, USFWS, and the Environmental Protection Agency Region III.

General Conditions:

1. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition **3** below. Should you wish to cease to maintain the authorized activity or should you desire to

abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

2. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately stop work and notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

3. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

4. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.

5. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

6. No discharge of dredged or fill material may consist of unsuitable material (e.g.: trash, debris, car bodies, asphalt etc.) and material discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

8. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date.

9. The construction or work authorized by this permit will be conducted in a manner so as to minimize any degradation of water quality and/or damage to aquatic life. Also, you will employ measures to prevent or control spills of fuels or lubricants from entering the waterway.

10. Any heavy equipment working in wetlands other than those permitted for permanent impact must be placed on mats or other measures must be taken to minimize soil disturbance.

11. Failure to comply with the terms and conditions of this permit can result in enforcement actions against the permittee and/or contractor.

12. In granting an authorization pursuant to this permit, the Norfolk District has relied on the information and data provided by the permittee. If, subsequent to notification by the Corps that a project qualifies for this permit, such information and data prove to be materially false or materially incomplete, the authorization may be suspended or revoked, in whole or in part, and/or the Government may institute appropriate legal proceedings.

13. All dredging and/or filling will be done so as to minimize disturbance of the bottom or turbidity increases in the water which tend to degrade water quality and damage aquatic life.

14. Your use of the permitted activity must not interfere with the public's right to reasonable navigation on all navigable waters of the United States.

15. The permittee understands and agrees that if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army of his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required upon due notice from the Corps of Engineers to remove, relocate, or alter the structural work or obstructions caused thereby without expense to the United States. No claim shall be made against the United States on account of any such removal or alternation.

Further Information:

1. Limits of this authorization:
   a. This permit does not obviate the need to obtain other Federal, state or local authorizations required by law.
   b. This permit does not grant any property rights or exclusive privileges.
   c. This permit does not authorize any injury to the property or rights of others.
   d. This permit does not authorize interference with any existing or proposed Federal projects.

2. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:
   a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
   b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
   c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
   d. Design or construction deficiencies associated with the permitted work.
   e. Damage claims associated with any future modification, suspension, or revocation of this permit.

3. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

4. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
   a. You fail to comply with the terms and conditions of this permit.
   b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 3 above).
   c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

   Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

5. Extensions: Project Specific Condition #2 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit. Dredging authorization shall not exceed 10 years (33 CFR 325.6(e) and further authorization would require a new application.

Your signature below, as a permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

_____
(Permittee)

_____
(Date)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

_____
Brian P. Hallberg, PMP
Colonel, U.S. Army
Commanding

_____
(Date)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

_____
(Transferee)

_____
(Date)