February 19, 2024

Miller Senate Office Building
c/o Education, Energy, & the Environment Committee
11 Bladen Street
Annapolis, MD 21401

RE: SB1048

Sir or Madam:

This written testimony serves as my individual support for Senate Bill 1048 (HB0752) regarding the transfer of ownership of fast land created under a tidal wetland permit issued by the Maryland Department of the Environment (MDE).

The 1970 Wetlands Act defines State wetlands as follows:

> "State wetlands" means all land under the navigable waters of the State below mean high tide, which is affected by the regular rise & fall of the tide. Such wetlands, which have been transferred by the State by a valid grant, lease or patent or a grant confirmed by Article 5 of the Declaration of Rights of the Constitution of Maryland, shall be considered "private wetland" to the extent so transferred.

By granting a tidal wetlands license, MDE is acquiescing to the relocation of mean high water, and therefore the relocation of the public/private ownership boundary. Acquiescence is an established concept in boundary law, as to unwritten transfers of land ownership. SB1048 appears to codify this concept to eliminate ambiguities in property ownership. Without this transfer of ownership, either by unwritten transfer via acquiescence or fee simple interest transfer by deed, the preparation of a Boundary Survey will require additional research in MDE's records to establish that the shoreline was created under a tidal wetlands license, and to somehow re-establish the original MHW prior to construction of the living shoreline to show a strip of land owned by the State.

As this bill appears to codify an accepted concept of boundary law, I ask that the committee make a favorable recommendation for SB 1048. If you have any questions or concerns regarding this written testimony, please contact me at 667-204-8042 or wbower@atwell-group.com. Thank you.

Respectfully,

ATWELL, LLC

Annapolis, MD

William Bower, PE, PLS
 Sr. Project Manager