

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>				1. CONTRACT ID CODE <b>J</b>	PAGE OF PAGES <b>1   3</b>
2. AMENDMENT/MODIFICATION NO. <b>0001</b>	3. EFFECTIVE DATE <b>24-May-2004</b>	4. REQUISITION/PURCHASE REQ. NO. <b>W26GLG-4103-0573</b>		5. PROJECT NO.(If applicable)	
6. ISSUED BY CODE <b>W91236</b>  USA ENGINEER DISTRICT, NORFOLK CONTRACTING OFFICE 803 FRONT STREET NORFOLK VA 23510-1096		7. ADMINISTERED BY (If other than item 6) CODE  <b>See Item 6</b>			
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and Zip Code)				<input checked="" type="checkbox"/>	9A. AMENDMENT OF SOLICITATION NO. <b>W91236-04-B-0015</b>
				<input checked="" type="checkbox"/>	9B. DATED (SEE ITEM 11) <b>03-May-2004</b>
					10A. MOD. OF CONTRACT/ORDER NO.
					10B. DATED (SEE ITEM 13)
CODE		FACILITY CODE			
<b>11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS</b>					
<input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offer <input type="checkbox"/> is extended, <input type="checkbox"/> is not extended. Offer must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.					
12. ACCOUNTING AND APPROPRIATION DATA (If required)					
<b>13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</b>					
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.					
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(B).					
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:					
D. OTHER (Specify type of modification and authority)					
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.					
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.) Subject amendment for Maintenance Dredging Hoskins Creek Channel, Essex County, VA is modified as follows:  <p style="text-align: center;">REFER TO CONTINUATION SHEET</p>					
Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.					
15A. NAME AND TITLE OF SIGNER (Type or print)			16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)		
			TEL: _____ EMAIL: _____		
15B. CONTRACTOR/OFFEROR		15C. DATE SIGNED	16B. UNITED STATES OF AMERICA		16C. DATE SIGNED
_____ (Signature of person authorized to sign)			BY _____ (Signature of Contracting Officer)		<b>24-May-2004</b>

SECTION SF 30 BLOCK 14 CONTINUATION PAGE

**The following items are applicable to this modification:**

W9123604B0015 0001

Subject solicitation for Maintenance Dredging Hoskins Creek Channel, Essex County, Virginia is modified as follows:

**A. STANDARD FORM 1442, SOLICITATION, OFFER, AND AWARD, Block 13A:**

**Bid Opening Date** insert the following:

At **hour** "1400" and **date** "3 JUN 2004"

**B. SECTION 00010, SOLICITATION CONTRACT FORM:**

Bid Schedule DELETE in its entirety and SUBSTITUTE new bid schedule provided as **Attachment A** to this amendment.

**Note: Quantity change for CLIN No. 0002.**

**C. SECTION 00100, BIDDING SCHEDULE/INSTRUCTIONS TO BIDDERS:**

INSERT Clause No. 52.222-0023, Notice of Requirement for Affirmative Action to Ensure Equal Employment provided as **Attachment B** to this amendment.

**D. TECHNICAL SPECIFICATION CHANGES:**

1. SECTION 01005

a. Page 01005-4, paragraph 1.4.7, in the first sentence after "dredged" insert the following"  
"; however, wetlands are in the vicinity of the dredging and placement area as depicted on the contract drawings. As part of the Contractor's responsibility to layout the work, all non-impacted wetlands within 50 feet of the Contractor's earthwork or dredged material placement operations shall be clearly marked in the field by the licensed Professional Engineer or Surveyor. The boundary points shall be physically located with 1 inch diameter steel pipe and marked with orange flagging prior to dredging operations. These markings shall be maintained during the duration of operations in the affected area and removed upon completion of the scheduled work. All Contractor equipment operations in the temporarily impacted wetland areas shall be on mats. Mats shall be removed as soon as the work is complete and all disturbed areas, including vegetation and earthen material, shall be repaired to original grades and condition."

b. Page 01005-6, after paragraph 1.5.3, insert the following:

"1.5.4 Before Dredging Survey

"The Contractor shall give the Contracting Officer written notice for Acceptance Section Survey Reports at least 14 calendar days prior to arrival of the dredge plant at the first work area or acceptance section, and shall furnish written notice at least 14 work days in advance of need for subsequent before dredging surveys. It is understood that the surveys made in response to notice by the Contractor will constitute the before dredging survey and that any subsequent surveys occasioned through Contractor delays will be charged against the Contractor at a rate of \$5,000 per day. The Contracting Officer will not be responsible for any delays in the commencement of work caused by incomplete surveys if the Contractor fails to provide adequate advance written notice as specified."

3. SECTION 01200: Page 01200-1, paragraph 1.2.2, in the last sentence, delete "Nature Conservancy and".

4. SECTION 01355:

a. Page 01355-8, paragraph 3.5, sentence 5, delete “hopper”.

b. At the end of the SECTION, delete the Virginia Department of Environmental Quality Permit and substitute ~~therefore~~ the new Virginia Department of Environmental Quality Permit issued with this Amendment as **Attachment C**.

5. SECTION 01451: Page 01451-3, paragraph 3.4.2a, delete “This experience shall include work in environments with turtle and other listed species protection restrictions and compliance with environmental requirements in the Commonwealth of Virginia.”.

Section 00010 - Solicitation Contract Form

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001		1	Lump Sum	Job	
	FFP Mobilization and Demobilization PURCHASE REQUEST NUMBER: W26GLG-4103-0573				

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NET AMT

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002		76,500	Cubic Yard	\$ _____	
	FFP Dredging Hoskins Creek Channel and Turning Basin to a depth of 10 feet below Mean Lower Low Water (MLLW) with one foot of allowable overdepth, complete, including all associated work as indicated and specified. Note: This is an estimate quantity.				

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NET AMT

TOTAL ESTIMATE AMOUNT BID.....\$ \_\_\_\_\_

SECTION 00100 - BIDDING SCHEDULE/INSTRUCTIONS TO BIDDERS

52.222-23 NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY FOR CONSTRUCTION (FEB 1999)

(a) The offeror's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.

(b) The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation for each trade	Goals for female participation for each trade
27.9	6.9

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the Federal Register in notice form, and these notices may be obtained from any Office of Federal Contract Compliance Programs office.

(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on (1) its implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and (3) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor, or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

(d) The Contractor shall provide written notification to the Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, within 10 working days following award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the --

- (1) Name, address, and telephone number of the subcontractor;
- (2) Employer's identification number of the subcontractor;
- (3) Estimated dollar amount of the subcontract;
- (4) Estimated starting and completion dates of the subcontract; and
- (5) Geographical area in which the subcontract is to be performed.

(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is Petersburg, Virginia.  
(End of provision)



**COMMONWEALTH of VIRGINIA**  
 DEPARTMENT OF ENVIRONMENTAL QUALITY

VWP Permit No. 99-1114  
 Effective Date: December 12, 1999  
 Expiration Date: December 12, 2009

**AUTHORIZATION TO DISCHARGE UNDER THE  
 VIRGINIA WATER PROTECTION PERMIT  
 PURSUANT TO SECTION 401 OF THE CLEAN WATER ACT  
 AND STATE WATER CONTROL LAW**

Based upon an examination of the information submitted by the owner and in compliance with Section 401 of the Clean Water Act as amended (33 USC 1251 et seq.) and the State Water Control Law and regulations adopted pursuant thereto, the Department has determined that there is a reasonable assurance that the activity authorized by this permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards.

Permittee: Mr. Ronald G. Vann, P.E.  
 Chief, Waterways and Ports Branch  
 U.S. Army Corps of Engineers, Norfolk District  
 Address: 803 Front Street  
 Norfolk, Virginia 23510

Activity Location: Hoskins Creek, from the Rappahannock River to the highway bridge on Routes 17 and 360 in Tappahannock, Virginia.

Activity Description: The applicant proposes to maintenance dredge the Hoskins Creek Federal Navigation Project Channel (1.1 miles long), by hydraulic method, to a depth of -12 ft. MLLW and a bottom width of 100 ft. reducing to 80 ft. inside the creek with a 3 to 1 side slope. Quantities will be 130,000 cubic yards each event or 400,000 cubic yards over the permit term and will be pumped to a diked, upland placement site near Riverside Tappahannock Hospital in Tappahannock, VA.

The permitted activity shall be in accordance with this cover page, Part I - Special Conditions, and Part II - General Conditions.

*James J. Golden (Sr)*  
 Director, Department of Environmental Quality  
 Date 12/12/99

W91236-04-B-0015  
 0001  
 Attachment C(1)

Authorized Activities

1. This permit authorizes the maintenance dredging of the Hoskins Creek Federal Navigation Project Channel by hydraulic method as indicated in the Joint Permit Application dated June 10, 1999 and supporting documentation received on October 18, 1999, which was deemed complete on October 18, 1999. There will be a return flow from the upland disposal site to Hoskins Creek.
2. Any additional impacts to State waters associated with this project may require modification of this permit and mitigation.

Site Specific Dredging Conditions

3. The double handling of dredged material in State waters shall not be permitted.
4. All dredged materials pumped by hydraulic method via pipeline to the disposal area shall be done in such a manner as to prevent leakage or discharge into State waters. In the event of a ruptured pipeline, the Department of Environmental Quality-Kilmarnock Office (DEQ-KO) shall be notified immediately and dredging/disposal operations shall immediately cease until repairs are accomplished.
5. If evidence of impaired water quality, including fish kills, is observed during the dredging, dredging operations shall cease and the DEQ-KO (804-435-3181) shall be notified immediately.
6. All dredging shall be accomplished by hydraulic methods.
7. Each dredging cycle may remove 130,000 cubic yards of material, with no greater than 400,000 cubic yards removed over the term of this permit.
8. Dredging is permitted to a maximum allowable depth of -12 feet Mean Low Low Water (MLLW) (to include advance maintenance and allowable overdepth).
9. The proposed entrance channel bottom width dredge cut shall not exceed 100 feet and shall reduce to 80 feet in bottom width inside the creek with a 3 to 1 side slope. The dredge area of the turning basin, which is located at the public wharf, shall not exceed a 250 foot long by 200 foot wide area. The channel length is 1.1 miles.
10. The dredged material will be pumped by pipeline to a previously-used, diked, upland, 40 acre placement site near Riverside Tappahannock Hospital. There will be a return flow to State waters from this site.

11. A post dredge bathymetric survey shall be submitted to the DEQ-KO within 30 days following completion of dredging operations.
12. The dredged material dewatering area shall be of adequate size to contain the dredged material and to allow for dewatering and settling out of sediment prior to discharge back into State waters.
13. The dredged material dewatering area shall utilize an earthen berm and/or straw bales covered with filter fabric along the edge of the area to contain the dredged material, and shall be properly stabilized prior to placing the dredged material within the containment area.
14. To prevent erosion and scouring of the shoreline, a rip-rap apron shall be placed at the outfall pipe at the point of discharge into State waters.
15. The dewatering structure shall remain in place until all dredged material has fully dewatered.
16. Adequate ground cover or seeding shall be applied to the outside bank of the earthen berm within 7 days after constructing the berm to minimize soil runoff.
17. Overtopping of the dredge spoil containment berms with dredge spoil shall be prohibited.
18. Dredging will not occur between March 1 and June 30 to protect aquatic resources and anadromous fish.

Conditions Applicable to all Permits

19. This permit is valid for **ten years** from the date of issuance. Reissuance of the permit may be necessary if any portion of the authorized activities or any permit requirement (including mitigation) has not been completed. The VWPP Regulation (9 VAC 25-210-80) requires submittal of an application for reissuance no less than 180 days prior to the expiration date of the permit.
20. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all Department of Environmental Quality Regulations.
21. Wet or uncured concrete shall be prohibited from entry into State waters.
22. All materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats, immediately

- stabilized to prevent entry into State waters, managed such that leachate does not enter State waters, and completely removed within 30 days following completion of that construction activity. Disturbed areas shall be returned to original contours, stabilized within 30 days following removal of the stockpile, and restored to the original vegetated state.
23. All non-impacted wetlands within 50 feet of any clearing, grading, and/or filling activities shall be clearly flagged or demarcated for the life of the construction activity within that area. The permittee shall notify all contractors that these marked areas are wetlands where no excavation or filling is to occur.
  24. Equipment in temporarily-impacted wetland areas shall be placed on mats. Mats shall be removed as soon as that work is complete, and disturbed areas shall be returned to original contour and stabilized within 30 days and restored to the original vegetated state.
  25. All utility line work in State waters shall be performed in such a manner as to minimize disturbance, and the area must be returned to its original contours and stabilized.
  26. Erosion and sedimentation controls shall be designed in accordance with the current Virginia Department of Conservation and Recreation (DCR) Erosion and Sedimentation Control Handbook. These controls shall be placed prior to clearing and grading and maintained in good working order to minimize impacts to waters. These controls shall remain in place until the area stabilizes.
  27. All denuded areas shall be properly stabilized in accordance with the current DCR Erosion and Sedimentation Control Handbook.
  28. All construction and demolition activities associated with this project shall be accomplished in such a manner that construction and/or waste materials do not enter State waters.
  29. Project activities shall not disrupt the movement of aquatic life, unless authorized by this permit.
  30. No machinery may enter flowing waters in connection with this project unless authorized by this permit.
  31. Immediately downstream of the dredging, the instream pH shall be maintained between 6.0 and 9.0 standard units, the instantaneous instream dissolved oxygen shall not fall below 4.0 mg/l, and the instream water temperature shall not rise more than 3 degrees C from the instream water temperature at an appropriate upstream sampling point. Should these limits be violated, dredging activities shall halt and DEQ shall be notified immediately.

A corrective action plan, schedule, and monitoring plan shall be submitted to the DEQ-KO within 5 days of the violation.

#### Monitoring

32. Dated photographs shall be taken during dredging operations clearly depicting the dredging equipment in operation.
33. Dated photographs of the disposal site shall be taken after completion of the dredging operations and as soon as the dredge spoil material has stabilized.
34. Monitoring of return flow operations shall consist of measurement of Dissolved Oxygen (D.O.) 1,000 feet down current of the return flow, three feet below the water surface. Collect readings during slack tide once each day that there is a return flow. D.O. measurements shall be taken using an EPA approved method.
35. Total Suspended Solids (TSS) shall be monitored in the return flow from the disposal area, within 200 feet of the dredge cut, and in the receiving waters outside of the impact area, daily, by grab samples during operations. The Total Suspended Solids (TSS) sampling and analysis shall be by an approved EPA method.

#### Reporting

36. **Written communications** required by this permit **shall be submitted to the Department of Environmental Quality, Kilmarnock Office (DEQ-KO), P. O. Box 669, Kilmarnock, Virginia 22482.** Please include your permit number, 99-1114, in all correspondence with our office.
37. **The DEQ-KO shall be notified in writing by certified letter at least ten days prior to the start of dredging operations.** Notification shall include identification of the impact area at which work will occur and a projected schedule for completing work at each permitted impact area.
38. **Photographs detailed in Special Conditions No. 32 and 33, above, shall be submitted to the DEQ-KO within 30 days of being taken.**
39. **The Corps of Engineers' Inspection Group Summary of Daily Operations Reports shall be submitted to the DEQ-KO VWPP staff every week during dredge or discharge operations.**
40. **Exceedances of State Water Quality Standards shall be reported within 24 hours to the DEQ-KO (804-435-3181). After normal business hours, call the**

DEQ-Piedmont Regional Office at 804-527-5020.

41. **The permittee shall report any fish kills or spills of oil or fuel immediately upon discovery.** The permittee and his contractors shall employ measures to prevent spills of fuels and lubricants into State waters. The DEQ-Piedmont Regional office shall be notified (804-527-5020) if spills or fish kills occur Monday through Friday between the hours of 8:15 a.m. to 5:00 p.m., otherwise oil spills or fish kills shall be reported to the Virginia Department of Emergency Services (1-800-468-8892).
42. When unusual or potentially threatening conditions are encountered which require debris removal or involve potentially toxic substances, the permittee shall notify the DEQ-KO staff in writing. Measures to remove the obstruction, material, or toxic substance or to change the location of any structure is prohibited until approved by DEQ.
43. **Results of all water quality monitoring required by this permit shall be submitted to the DEQ-KO by the 10th of the month following sample collection.** Any results that do not comply with the values identified in special condition #31 above shall be verbally reported to DEQ-KO at (804-435-3181) within 24-hours of the permittee's receipt of sample results and reported in writing within 5 days. The written report shall address the probable cause of any measured water quality standard exceedance and what steps the permittee has taken or will take to correct the exceedance.
44. All submittals required by this permit shall contain the following, signed, certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

## PART II - GENERAL CONDITIONS

### A. Duty to Comply

The permittee shall comply with all conditions of the permit. Nothing in these regulations shall be construed to relieve the permittee of the duty to comply with all applicable Federal and State statutes, regulations and toxic standards and prohibitions. Any permit non-compliance is a violation of the Clean Water Act and State Water Control Law, and is grounds for enforcement action, permit termination, revocation, modification, or denial of a permit renewal application.

### B. Mitigation Requirements

1. The permittee shall take all reasonable steps to
  - a) avoid all adverse environmental impact which could result from the activity,
  - b) where avoidance is impractical, minimize the adverse environmental impact, and
  - c) where impacts cannot be avoided, provide mitigation of the adverse impact on an in kind basis.

### C. Reopener

This permit may be reopened to modify the conditions of the permit to meet new regulatory standards duly adopted by the Board. Causes for reopening permits include, but are not limited to:

1. When State law prohibits conditions in a permit which are more stringent than an applicable effluent limitation guideline;
2. When subsequently promulgated effluent guidelines are modified, and are based on best conventional pollutant control technology; or
3. When the circumstances on which the previous permit was based have materially and substantially changed or special studies conducted by the Department or permittee show material and substantial change since the time the permit was issued and thereby constitute cause for permit modification or revocation and reissuance.

**D. Change in Management of Pollutants**

All discharges and other activities authorized by this permit shall be made in accordance with the terms and conditions of this permit. The permittee shall submit a new application 180 days prior to any modification to their activity which will:

1. Result in a significantly new or substantially increased discharge of dredged or fill material, or a significant change in the nature of the pollutants; or
2. Violate or lead to the violation of the terms and conditions of the permit or the water Quality Standards of the Commonwealth.

**E. Duty to Halt or to Reduce Activity**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

**F. Compliance with State and Federal Law**

Compliance with this permit constitutes compliance with Virginia Water Protection Permit requirements of the State Water Control Law. Nothing in this permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other State law or regulation or under the authority preserved by Section 510 of the Clean Water Act.

**G. Property Rights**

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal property rights, nor any infringement of federal, state or local laws or regulations.

**H. Severability**

The provisions of this permit are severable.

**I. Right of Entry**

The permittee shall allow authorized State and Federal representatives, upon the presentation of credentials at reasonable times and under reasonable circumstances:

1. To enter the permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the permit conditions;
2. To inspect any facilities, operations, or practices (including monitoring equipment) regulated or required under the permit;
3. To sample or monitor any substance, parameter or activity for the purpose of assuring compliance with the conditions of the permit or as otherwise authorized by law.

For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency.

#### J. Transferability of Permits

This permit may be transferred to another person by a permittee if:

1. The current permittee notifies the Department of Environmental Quality 30 days prior to the proposed transfer of the title to the facility or property;
2. The notice of the proposed transfer includes a written agreement between the existing and proposed new owner containing a specific date of transfer of the permit responsibility, coverage and liability between them; and
3. The Department of Environmental Quality does not within the 30 day time period notify the existing owner of its intent to modify or revoke and reissue the permit.

Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.

#### K. Permit Modification

The applicant shall notify the Department of Environmental Quality of any modification of this project and shall demonstrate in a written statement to the Department that said modification will not violate any conditions of this permit. If such demonstration cannot be made, the permittee shall apply for a modification of this permit. This permit may be modified when any of the following developments occur:

1. When additions or alterations have been made to the affected facility or activity which require the application of permit conditions that differ from those of the existing permit or are absent from it;

2. When new information becomes available about the operation or discharge covered by the permit which was not available at permit issuance and would have justified the application of different permit conditions at the time of permit issuance;
3. When a change is made in the promulgated standards or regulations on which the permit was based;
4. When it becomes necessary to change final dates in schedules due to circumstances over which the permittee has little or no control such as acts of God, materials shortages, etc. However, in no case may a compliance schedule be modified to extend beyond any applicable statutory deadline of the Clean Water Act;
5. When an effluent standard or prohibition for toxic pollutant must be incorporated in the permit in accordance with provisions of Section 307(a) of the Clean Water Act;
6. When changes occur which are subject to "reopener clauses" in the permit.
7. When the Department of Environmental Quality determines that minimum instream flow levels resulting from the permittee's withdrawal of water are detrimental to the instream beneficial use, the withdrawal of water should be subject to further net limitations or when an area is declared a Surface Water Management Area pursuant to State water Control Law Sections 62.1-242 through 253, during the term of the permit;
8. When the level of discharge of a pollutant not limited in the permit exceeds the level which can be achieved by available methodology for controlling such discharges;
9. When the permittee begins or expects to begin to cause the discharge of any toxic pollutant not reported in the application; or
10. When other states were not notified of the change in the permit and their waters may be affected by the discharge.

#### L. Permit Termination

This permit, after public notice and opportunity for a hearing, is subject to termination. Causes for termination are as follows:

1. Noncompliance by the permittee with any condition of the permit;
2. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant

facts at any time;

3. The permittee's violation of a special or judicial order;
4. A determination that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by permit modification or termination; or
5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge of dredged and fill material controlled by the permit.

**M. Civil and Criminal Liability**

Nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

**N. Oil and Hazardous Substance Liability**

- Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act or Sections 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

**O. Unauthorized Discharge of Pollutants**

Except in compliance with this permit, it shall be unlawful for the permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances, or,
2. Otherwise alter the physical, chemical, or biological properties of such state surface waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.