APPENDIX A

PERMITS

DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1096

Reply to Attention of

FEBRUARY 11, 2014

Western Virginia Regulatory Section
NAO-2003-3339 (VMRC 12-0753) (Skiffes Creek)

Fort Eustis Director of Public Works
Ms. Robin D. Mills
1407 Washington Blvd
Fort Eustis, VA 23604

Dear Ms. Mills:

This is in reference to the continued maintenance dredging by mechanical or hydraulic means (cutter head discharge pipe than 24 inches) that was authorized by 08-RP-19 on July 3, 2012, and that verification is incorporated by reference. The maintenance dredging continues to meet the terms and conditions of the new 13-RP-02, attached. Provided that you follow the general and special conditions of 13-RP-02, as well as any additional conditions that have been included below; no further authorization will be required from the Corps.

This verification also includes the use a mechanical dredge and to place the material at the following sites: Shirley Plantation (Weanack), Big Bethel Landfill, Charles City Landfill and/or Clearfield MMG, Inc. facilities.

Please note that 13-RP-02 requires that the permittee must advise Norfolk District in writing at least two weeks before each maintenance dredging activity is undertaken so that regulatory staff may inspect the intended placement areas. The Norfolk District must approve dredged material placement areas before use.

Special Conditions:

As required by 13-RP-02, an after dredge hydrographic survey, prepared by a state-certified engineer or surveyor, shall be provided within 30 days completion of each dredging event.

Enclosed is a "compliance certification" form, which must be signed and returned within 30 days of completion of each dredging event. Your signature on this form certifies that you have completed the work in accordance with the regional permit terms and conditions.

Activities authorized under this RP must be completed by August 14, 2018. If this RP is reissued at that time, and if this work has not been started or completed, but the project continues to meet the terms and conditions of the revalidated RP, then the project will continue to be authorized. The Corps will issue a special public notice announcing any changes to the Regional Permits when they occur; however, it is incumbent upon you to remain informed of changes to the RPs. Activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon this RP that do not meet the terms and conditions of the revalidated RP will remain authorized provided the activity is completed within twelve months of the date of this RP's expiration (i.e. August 14, 2019), unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR Part 325.7(a-e). If work cannot be completed by August 14, 2019, you must reapply for separate permit authorization in order to meet current permit criteria.

The State Water Control Board provided **unconditional** §401 Water Quality Certification for this RP. Therefore, the activities that qualify for this RP meet the requirements of Department of Environmental Quality's (DEQ) Virginia Water Protection Permit Regulation, provided that the permittee abides by the conditions of this RP. You will not be required to obtain a separate 401 Water Quality Certification from DEQ. However, a permit may be required from the Virginia Marine Resources Commission and/or your local wetlands board. Please note that you should obtain all required State and local authorizations before you proceed with the project. This authorization does not relieve your responsibility to comply with local requirements pursuant to the Chesapeake Bay Preservation Act (CBPA), nor does it supersede local government authority and responsibilities pursuant to the Act. You should contact your local government before you begin work to find out how the CBPA applies to your project. Pursuant to the Coastal Zone Management Act (CZMA) of 1972, the Virginia Department of Environmental Quality Virginia Coastal Zone Management Program (VCP) completed its review of the Federal Consistency Determination (FCD) for this RP on May 10, 2013 and provided concurrence that this RP is consistent with the VCP. Therefore, no further coordination with the VCP is required. Authorizations under this RP do not supersede state or local government authority or responsibilities pursuant to any State or local laws or regulations.

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 or 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 alteration.

If you have any questions and/or concerns about this permit authorization, please contact me via telephone at (757) 201-7794 or via email at john.d.evans@usace.army.mil

Sincerely,

John Evans
Western Virginia Regulatory Section

Enclosure:
13-RP-02
Compliance certificate

U.S. Army Corps Of Engineers
Norfolk District

Fort Norfolk, 803 Front Street
Norfolk, Virginia 23510-1096

CENAO-REG
13-RP-02

REGIONAL PERMIT

Effective Date: August 14, 2013 **Expiration Date: August 14, 2018**

I. AUTHORIZED ACTIVITIES:

13-RP-02, Regional Permit 2, authorizes both new and maintenance dredging (channels and basins) for certain navigationally-related recreational and commercial dredging projects, by either mechanical or hydraulic method, in navigable waters of the United States. In addition, minor non-navigation related dredging/excavation, and its associated discharges of fill in non-tidal, non-navigable waters is also authorized. This regional permit authorizes these activities within the geographical limits of the Commonwealth of Virginia under the regulatory jurisdiction of the Norfolk District Army Corps of Engineers (Corps), subject to the terms and conditions further set out herein**:**

1. **Maintenance Dredging for Previously Authorized Projects:**
   a. Applicants must document that a previous Department of the Army permit was issued in the past for the same project area proposed for maintenance dredging.
   b. Maintenance dredging is limited to the removal of material at a depth no deeper than the current authorized dredge depth.
   c. Areas to be dredged and dredged depths shall not exceed those specified by the most recent Department of the Army permit.

2. **New Dredging in Navigable Waters:**
   a. The dredging authorized by this permit will not exceed a surface area of two (2) acres calculated by the length of the area to be dredged times the top width of the area to be dredged.
   b. The depth of dredging of access channels shall not exceed controlling depths of ingress/egress.
   c. Channels will have a bottom width of at least 20 feet except where the Corps determines that safe navigation will not be compromised. In those cases, a reduction in the minimum bottom width to 15 feet shall be allowed.
   d. Dredging is limited to areas below mean low water.
   e. No dredging of cobble habitat, intertidal mudflats, wetlands, shellfish beds, or submerged aquatic vegetation is authorized.

3. **Maintenance Dredging/Excavation of Non-tidal, Non-Navigable Waters Not Subject to the Exemption Under Section 404(f)(1)(c):**
   The combined amount of non-navigation related dredge/excavated material and associated discharge of dredge or fill material in wetlands or waters of the United States (including any temporary discharges), cannot exceed 5,000 cubic yards, nor can the combined area of fill and dredge/excavation exceed a surface area of two (2) acres.

II. AUTHORITIES:

The people of the Commonwealth of Virginia are hereby authorized by the Secretary of the Army and the Chief of Engineers pursuant to Section 10 of the River and Harbors Act of 1899 ((33 U.S.C. § 403) and/or Section 404 of the Clean Water Act (33 U.S.C. § 1344) to perform the aforementioned work in tidal and nontidal navigable waters of the United States of the Commonwealth as further described herein and pursuant to the terms and conditions herein.

Activities receiving written authorization under this RP do not require further authorization under the provisions contained in 33 CFR Part 325 unless the District Engineer determines, on a case-by-case basis, that additional review is in the public interest. All work undertaken outside the following conditions, terms, and limitations will require separate Department of the Army authorization.

III. STATE AND LOCAL APPROVALS:

1. Prospective permittees may be required to obtain additional state and/or local approvals prior to commencement of work in waters of the United States from the Virginia Marine Resources Commission (VMRC) and/or the local wetlands board. You may contact the VMRC at (757) 247-2200 and/or local government office for further information concerning permit requirements.

2. The State Water Control Board provided conditional §401 Water Quality Certification for the 13-RP-02. Therefore, the activities that qualify for this RP meet the requirements of Department of Environmental Quality's (DEQ) Virginia Water Protection Permit Regulation, provided that the permittee abides by the §401 Water Quality Certification condition, below, and all of the terms and conditions of 13-RP-02.

   §401 Water Quality Certification Condition: For new dredging projects in water body segments on the current effective Section 303(d) Total Maximum Daily Load (TMDL) priority list or water body segments with an approved TMDL, the prospective permittee must ensure that the proposed dredging will not exacerbate impairment of the water body segments and that the dredging is consistent with any waste load allocation, limit, or conditions imposed by an approved TMDL. Information regarding water bodies on the 303(d) priority list and approved TMDL's is available on the Department of

Environmental Quality's website at: http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/ApprovedTMDLReports.aspx.

Maintenance dredging for previously authorized projects are exempt from this requirement provided that:

a. A permit from the Norfolk District Corps for the initial dredging must have been received for the area proposed for maintenance dredging.
b. Maintenance dredging is limited to the removal of material accumulated after the initial authorized dredging.
c. Areas to be dredged and dredged depths shall not exceed those specified by the original authorization.

3. Those activities on the Potomac River extending beyond the mean low water line may require authorization by the Virginia Marine Resources Commission (VMRC) and/or the Maryland Department of Natural Resources. Authorization may also be needed from the Tennessee Valley Authority for projects constructed on the Clinch and Holston Rivers.

4. Pursuant to the Coastal Zone Management Act (CZMA) of 1972, the Virginia Department of Environmental Quality Virginia Coastal Zone Management Program (VCP) completed its review of the Federal Consistency Determination (FCD) for this RP on May 10, 2013 and provided concurrence that this RP is consistent with the VCP.

5. Permittees should ensure that their projects are designed and constructed in a manner consistent with all state and local requirements pursuant to the Chesapeake Bay Preservation Act ("the Act") (Virginia Code 10.1-2100 *et seq.*) and the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20-10 *et seq.*).

6. Authorizations under this RP do not supersede state or local government authority or responsibilities pursuant to the Chesapeake Bay Preservation Act, the Virginia Tidal Wetlands Act or to any State or local laws or regulations.

IV. PROCEDURES:

For most projects, prospective permittees must submit an application in accordance with the procedures outlined below and must receive written authorization from the Corps of Engineers before any work may begin. This RP shall not be interpreted as authorizing any work other than which is outlined below and which strictly meet all terms and conditions set out herein. All work undertaken that does not strictly comply with the following terms, conditions, standards and limitations will require separate Department of the Army authorization.

1. If required, applicants shall use the newest version of Joint Permit Applications (JPA), applicants must supply drawings required by the applicable JPA, and must submit such applications to the Virginia Marine Resources Commission (VMRC). A JPA can be

obtained by writing to the District at the above address or telephoning (757) 201-7652. With internet access, an application may also be obtained by downloading a copy at the following link: http://www.nao.usace.army.mil/Missions/Regulatory/JPA.aspx. For maintenance dredging projects, a cover letter describing the proposed dredging activity and a copy of any previous Department of the Army permit(s) must be submitted, at a minimum, in order to initiate the permit evaluation for the proposed maintenance project.

2. In addition to the information required in the JPA, the following additional information must be included in the application and/or on the drawings in order for the application to be considered complete:
    a. The distance of toe of channel from the channelward edge of mudflats and vegetated wetlands.
    b. The buffer distance (buffer distance = depth of dredging x 4) between the toe of the channel and the wetlands as determined by using the "4X buffer" guidance developed by the Virginia Institute of Marine Science (VIMS) in the Virginia Wetlands Report No. 93-8, entitled "Mid-Atlantic Wetland Compensatory Mitigation Workshop," pages 7, dated Summer 1993.
    c. Existing bathymetric depth profile (i.e. depth soundings) referenced to local tidal or geodetic datum.
    d. Information on the dredged material management site including location maps, drawings, and a description of the methods of transporting the material to the dredged material management site.
    e. Any structures (i.e. piers, boat lifts) required to provide access to the proposed dredging. (Note: Piers and related structures are not authorized by this letter of permission, but may be authorized in conjunction with the letter of permission under other general permits).
    f. Copies of previous permits from the Norfolk District for maintenance dredging projects.

3. "Tier 1" or additional testing of the sediment to be dredged may be required to evaluate the potential for contaminants of concern in the dredged material. If testing is required, a sampling and analysis plan shall be submitted to the Norfolk District for approval. Testing results must be submitted to, and approved by, the Norfolk District prior to dredging. The evaluation of dredged material for inland disposal will follow the guidance in the "Evaluation of Dredged Material Proposed for Discharge in Waters of the U.S.- Testing Manual (Inland Testing Manual), dated February, 1998, or the most current version. The manual may be downloaded from the Environmental Protection Agency website: http://water.epa.gov/type/oceb/oceandumping/dredgedmaterial/testing.cfm

4. Prospective permittees shall not begin the proposed dredging until notified in writing by the District Engineer that the activity may proceed under this RP, and must follow any additional special conditions imposed by the District Engineer.

V. SPECIAL CONDITIONS:

1. In order to protect vegetated wetlands, a buffer distance of four times the depth of dredging, i.e. "4X Buffer", must be maintained between the toe of the dredged channel and the channelward edge of the vegetated wetlands. The buffer distance is to be determined by using the guidance developed by Virginia Institute of Marine Science (VIMS) in the Virginia Wetlands Report No. 93-8, entitled "Mid-Atlantic Wetland Compensatory Mitigation Workshop," pages 7, dated Summer 1993, which explains how to properly obtain the "4X Buffer" distance. This report can be found at the following website: http://ccrm.vims.edu/publications/publications_topics/vwr/vwr-summer93.pdf

2. Dredging will be permitted to a certain depth at mean low water and/or ordinary high water, referenced to local tidal or geodetic datum, as outlined on drawings provided by the applicant. This permitted depth includes any advance maintenance, allowable overdepth, and/or margin of error. Exceeding this depth will be considered a violation of the terms and conditions of the permit. In order to ensure compliance, if a permittee under this RP enters into a contract for this work to be performed; the terms of the contract should specify that the permitted depth cannot be exceeded. The only way to legally dredge deeper is to apply for, and be granted, a permit modification before the dredging occurs. If the requested modifications exceed the terms and conditions of this RP, than an Individual Department of the Army permit will be required. Both the permittee under this RP and any contractor performing work may be subject to substantial fines and penalties for any permit violation.

3. Additional periodic maintenance dredging may be performed until expiration of this regional permit authorization. However, the Norfolk District must be advised in writing by the permittee at least two weeks before each maintenance dredging activity. Maintenance dredging must use the same dredged material disposal site as authorized; if a new disposal site is necessary, a written permit modification is required from the Corps prior to maintenance dredging.

4. All piers, associated structures (e.g., boatlifts, mooring piles, etc.) and vessels, whether existing or proposed under a different permit, will be located outside the channel.

5. Any authorized dredging located adjacent to certain resources (including shellfish beds, submerged aquatic vegetation, and anadromous fish use areas) will require a time of year restriction (TOYR), unless determined unnecessary through additional agency coordination. The TOYR indicates the time of any given year that the authorized dredging cannot be performed in order to protect these resources. The TOYR for these resources are as follows:
    - Shellfish beds: March 1 through September 30
    - Submerged Aquatic Vegetation: March 1 through October 31
    - Anadromous Fish Use Areas: February 15 through June 30

6. All dredged material must be disposed of in a currently approved dredged material disposal site, in an approved upland disposal site, or at the Craney Island Dredged

Material Management Area/Rehandling Basin. Use of dredged material composed of sand may be used for beach nourishment if the beach nourishment qualifies for under RP-19, otherwise the project will require separate authorization. The disposal of dredged material into waters of the United States (including wetlands) is not authorized by this permit, accepted at approved dredged material disposal sites. Currently approved dredged material management sites do not include ocean disposal site; use of ocean disposal must be permitted under separate authorization.

7. If an upland disposal site is to be utilized, the site must be properly designed to contain the material and have proper erosion and sedimentation controls to prevent overtopping and re-entry into the waterway. In addition, the prospective permittee must adequately address the need for liner or impermeable material to prevent leaching of any identified contaminants into ground water.

8. Craney Island Dredged Material Management Area (CIDMMA) and Craney Island Rehandling Basin (CIRB):

   a. The CIDMMA and/or CIRB may be used if a project meets the requirements for such use (see H.D. 563, 79th Congress, 2nd Session, P.L. 79-525; requirements include specification that work must be related to the development or maintenance of navigation improvements in the port of Hampton Roads. You must receive specific approval in your permit in order to dispose of dredged material at CIDMMA and/or CIRB.

   b. The dredged material will be transported by barge to CIRB or by pipeline to the CIDMMA. If the CIDMMA or the CIRB become unavailable for use as a dredged material placement area during the terms of this authorization, you will be responsible for finding an alternate placement area and having it approved by this office prior to any further dredging.

   c. Permitted users of CIDMMA and all associated dredged material placement operations shall comply with current version of the Army Corps of Engineers, Norfolk District, Commander’s Policy Memorandum Number WRD-01, "Deposition of Dredged Material and use of the Craney Island Dredged Material Management Area, Norfolk Harbor, Virginia".

   d. The form entitled "Deposit of Material into Craney Island" must be completed prior to depositing material into the CIDMMA or Rehandling Basin. Please be advised that it is the permittee’s responsibility to ensure that the Corps receives the appropriate payments. Contact our Operations Support Section at 757-201-7642 or 7645 to obtain current conditions and toll rates at CIDMMA.

   e. The permittee is hereby advised that the prime contractor performing the dredging project must obtain a Real Estate license from the Norfolk District Real Estate Office prior to the commencement of any work which would utilize the Craney Island Dredged Material Management Area or Government Bulkhead Facilities at the

Craney Island Rehandling Basin. The permittee/prime contractor should contact the Norfolk District Real Estate Acquisition, Management, and Disposal Section at (757) 201-7730 for further information regarding the Department of the Army License.

9. Within 30 days of completion of the 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.

10. Barges and scows used to transport dredged material may be filled only to a point where no overflow occurs. No overflow pipes are allowed.

VI. GENERAL CONDITIONS:

The following conditions apply to all activities authorized under Regional General Permits (RP).

1. **Geographic jurisdiction.** This regional permit will authorize work undertaken within the geographical limits of the Commonwealth of Virginia under the regulatory jurisdiction of the U.S. Army Corps of Engineers (Corps).
2. **Compliance Certification**. A Certificate of Compliance must be completed and a copy retained for your records. The original Certificate of Compliance shall be mailed to, U. S. Army Corps of Engineers, Regulatory Branch, 803 Front Street, Norfolk, Virginia 23510-1096 within 30 days of completion of the project**.**
3. **Other permits.** Authorization does not obviate the need to obtain other Federal, state, or local authorizations required by law or to comply with all Federal, state, or local laws.
4. **Minimal effects.** Projects authorized shall have no more than minimal individual or cumulative adverse environmental impacts, as determined by the Corps.
5. **Discretionary authority.** The Norfolk District Corps of Engineers District Engineer retains discretionary authority to require processing of an individual permit based on concerns for the aquatic environment or for any other factor of the public interest (33 CFR Part 320.4(a)). This authority is exercised on a case-by-case basis.
6. **Single and complete projects.** This RP shall only be applied to single and complete projects. A single and complete project means the total project proposed or accomplished by one owner/developer or partnership and which has independent utility. For linear transportation projects with multiple crossings or encroachments a determination of "single and complete" will typically apply to each crossing of waters that occurs (i.e., single waterbody and/or wetlands) at separate and distinct locations and with independent utility. However, in cases where there are many crossings in close proximity, numerous crossings of the same waterbody, multiple crossings, or multiple encroachments that otherwise may have more than minimal individual or cumulative impacts; the Corps has the discretion to consider all the crossings cumulatively as one single and complete project.
7. **Independent Utility** A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent

utility. Phases of a project that would be constructed even if the other phases were not built can be considered as single and complete projects with independent utility.

8. **Multiple general permit authorizations.** This Regional Permit may be combined with any Corps general permits (including Nationwide (NWP) or Regional Permits (RP) for a single and complete project, as long as the impacts are considered cumulatively and do not exceed the acreage limit or linear foot limits of the RP/ NWP.
9. **Permit on-site.** The permittee shall ensure that a copy of the RP and the accompanying authorization letter are at the work site at all times. These copies must be made available to any regulatory representative upon request. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be expected to comply with all conditions of any general permit authorization.

General Conditions Related to National Concerns:

10. **Historic properties.** (a) In cases where it is determined that the activity may affect properties listed, or eligible for listing on the National Register of Historic Places, the activity is not authorized until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. (b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the Corps with the appropriate documentation to demonstrate compliance with those requirements. The Corps will review the documentation and determine whether it is sufficient to address Section 106 compliance for the RP activity, or whether additional Section 106 consultation is necessary. (c) Non-federal permittees must submit a statement to the Corps regarding the authorized activity's potential to cause effects to any historic properties listed, or determined to be eligible for listing on the National Register of Historic Places, including previously unidentified properties. The statement must say which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location or potential for the presence of historic resources can be sought from the Virginia Department of Historic Resources (VDHR) (http://www.dhr.virginia.gov/) or Tribal Historic Preservation Officer (THPO), as appropriate, and the National Register of Historic Places. Where an applicant has identified historic properties which the proposed activity may have the potential to affect, the applicant shall not begin the activity until notified by the Corps that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed. (d) Prospective permittees should be aware that Section 110(k) of the NHPA (16 U.S.C. § 470(h)-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effects created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide

documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/ THPO, appropriate Indian tribes if the undertaking occurs on or affect historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have legitimate interest in the impacts to the permitted activity on historic properties.

11. **Discovery of Previously Unknown Remains and Artifacts.** If you discover any previously unknown historic, cultural, or archaeological remains and artifacts while accomplishing activity 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 or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
12. **Tribal rights.** No activity authorized may impair reserved tribal rights, including, but not limited to, reserved water rights, treaty fishing, and hunting rights.
13. **Federal Lands.** Authorized activities shall not impinge upon the value of any National Wildlife Refuge, National Forest, National Park, or any other area administered by the U.S. Fish and Wildlife Service, U.S. Forest Service, or National Park Service unless approval from the applicable land management agency is provided with the permit application.
14. **Endangered species.** (a) No activity is authorized under any RP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any RP which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed; (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the District Engineer with the appropriate documentation to demonstrate compliance with those requirements. (c) Non-federal permittees shall notify the District Engineer if any proposed or listed species or proposed or designated critical habitat may be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. Information on the location proposed/listed species and proposed/designated critical habitat can be obtained directly from the U.S. Fish and Wildlife (USFWS) online project review process at http://www.fws.gov/northeast/virginiafield/endspecies/Project_Reviews.html and/or the NOAA Fisheries Service Protected Resources Division (NOAA PRD), at 55 Great Republic Drive, Gloucester, MA 01930 or via telephone at (978) 281-9328, email: http://www.nero.noaa.gov/protected/index.html. Notification must include the name(s) of the proposed or listed species and/or proposed or designated critical habitat that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The District Engineer will determine whether the proposed activity "may affect" or will have "no effect" to proposed or listed species or proposed or designated critical habitat and will notify the non-Federal applicant of the

Corps' determination within 45 days of receipt of a complete notification. In cases where the non-Federal applicant has identified proposed or listed species or proposed or designated critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on proposed or listed species or proposed or designated critical habitat, or until Section 7 consultation has been completed. (d) As a result of formal or informal consultation with the USFWS or NOAA PRD the District Engineer may add species-specific regional endangered species conditions to the RP. (e) Authorization of an activity by a RP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS or NOAA PRD, both lethal and non-lethal "take" of protected species are in violation of the ESA.

15. **Essential Fish Habitat.** The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-297; 11 October 1996), requires all Federal agencies to consult with the NOAA Fisheries Service Habitat Conservation Division (NOAA HCD) on all actions, or proposed actions, authorized, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). The EFH Designations within the Northeast Region (Maine to Virginia), dated March 1, 1999, has identified EFH for a number of species and their life stages within Virginia waters. If EFH consultation is required with NOAA HCD, the applicant shall not begin work until the Corps has provided notification that the EFH consultation has concluded.
16. **Migratory Birds and Bald and Golden Eagle Protection Act**. The bald eagle (*Haliaeetus leucocephalus*) is no longer a federally listed threatened or endangered species; therefore, the Endangered Species Act provisions are not applicable to this species. The Bald and Golden Eagle Protection Act (BGEPA) does not require that a federal agency involved in permitting the proposed action conduct coordination. The permittee is responsible for obtaining any "take" permits required under the U.S. Fish and Wildlife Service's regulations governing compliance with the Migratory Bird Treaty Act or the BGEPA. The applicant should either obtain "take" permit or a letter of concurrence from USFWS indicating that a permit is not necessary prior to initiating construction activities. You should contact USFWS concerning this matter at U.S. Fish and Wildlife Service, Virginia Field Office, ATTN: Kim Smith, 6669 Short Lane, Gloucester, VA 23061. Information on active bald eagle nests and concentration areas can be obtained in Step 6 of the U.S. Fish and Wildlife Service's online project review system available at: http://www.fws.gov/northeast/virginiafield/endspecies/Project_Reviews_Introduction.html.
17. **Wild and Scenic Rivers.** Currently, there are no designated Wild and Scenic Rivers in the Commonwealth of Virginia; however, the portion of the Upper New River from Glen Lyn, Virginia to the West Virginia/Virginia state line was designated a "study river" by Congress on October 26, 1992. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river has determined, in writing, that the proposed activity will not adversely affect the

Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Impacts that occur in these resource areas will require coordination with the appropriate Federal agency.

18. **Federal navigation project.** Authorized activities may not interfere with any existing or proposed Federal navigation projects.
19. **Navigation.** (a) No authorized activity may cause more than a minimal adverse effect on navigation. (b) 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 or his/her 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, 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 alteration.
20. **Floodplains.** All practicable efforts shall be made to conduct the work authorized by this RP in a manner so as to avoid any adverse impact on the Federal Emergency Management Agency (FEMA) designated 100-year floodplain.
21. **Real estate.** Activities authorized under this RP do not grant any Corps or Federal real estate rights. If real estate rights are needed from the Corps, you must contact the Corps Real Estate Office at (757) 201-7735 or at the address listed on the front page of this permit.
22. **Environmental Justice.** Activities authorized under this RP must comply with Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations".
23. **Federal liability.** In issuing this RP, 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 RP; (d) design or construction deficiencies associated with the permitted work; (e) damage claims associated with any future modification, suspension, or revocation of this permit.

General Conditions Related to Minimizing Environmental Impacts:

24. **Avoidance and minimization.** Except as provided under section 404(b)(2), no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.(40 CFR Part 230.10(a) Section 404 (b)(1) Guidelines).
25. **Mitigation.** Mitigation in all its forms (avoiding, minimizing, or compensating for resource losses) may be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal. The activity must be designed and constructed to

avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site)."

26. **Heavy equipment in wetlands.** Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance.
27. **Temporary fills.** All temporarily disturbed waters and wetlands must be restored to preconstruction contours within 6 months of commencing the temporary impact's construction. Impacts that will not be restored within 6 months (calculated from the start of the temporary impacts construction) will be considered permanent unless otherwise approved by the RP. Following restoration of contours, the soil in wetlands must be mechanically loosened to a depth of 12 inches, and the wetlands must then be seeded or sprigged with appropriate native wetland vegetation.
28. **Sedimentation and erosion control.** Appropriate erosion and sediment controls must be employed 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, must be permanently stabilized at the earliest practicable date.
29. **Aquatic life movements.** No authorized activities may substantially disrupt the necessary life cycle movements of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water. Corps has determined that fish and wildlife are most often present in any stream being crossed, in the absence of evidence to the contrary. All permanent and temporary crossings of water bodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. This includes providing invert elevations of culverts at or below the streambed to ensure unrestricted passage of aquatic organisms, where possible.
30. **Discharge of pollutants.** All authorized activities involving any discharge of pollutants into waters of the United States shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. § 1251 *et seq.*) and applicable state and local laws. No discharge of dredged or fill material in association with this authorization may consist of unsuitable material such as trash, debris, car bodies, asphalt, etc.
31. **Obstruction of high flows.** Discharges of dredged or fill material must not permanently restrict or impede the passage of normal or expected high flows.
32. **Waterbird breeding areas.** Discharges of dredged or fill material into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
33. **Native trout and anadromous fishes.** Authorizations for discharges of dredged or fill material into native trout waters or anadromous fish use areas will be conditioned to limit in-stream work within timeframes recommended by the DGIF and/or NOAA Fisheries Service. Coordination with DGIF and/or NOAA Fisheries Service will be conducted by the Corps. The applicant shall not begin work until notification is received that all coordination has been completed and/or the Corps has provided the applicant with the appropriate time of year restrictions regarding work in native trout waters or anadromous fish use areas.
34. **Water supply intakes.** No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for adjacent bank stabilization and/or the Corps has provided specific authorization under this permit.

General Procedural Conditions:

35. **Inspections.** A copy of this permit and any verification letter must be provided to the contractor and made available at the project site to any regulatory representative. The permittee understands and agrees that the Corps are permitted and allowed to make periodic inspections at any time the Corps deems necessary in order to assure that the activities being performed under authority of this permit are in accordance with the terms and conditions prescribed herein. The Corps reserves the right to require post-construction engineering drawings and/or surveys of any work authorized under this RP, as deemed necessary on a case-by-case basis.
36. **Maintenance.** The permittee shall maintain the work authorized herein in good condition and in conformance with all terms and conditions of this permit. All fills shall be properly maintained to ensure public safety.
37. **Property rights.** This General Permit does not convey any property rights, either in real estate or material, or convey any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, state, or local laws or regulations.
38. **Modification, suspension, and revocation.** This RP may be either modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 CFR Part 325.7. Any such action shall not be the basis for any claim for damages against the United States.
39. **Restoration directive.** The permittee, upon receipt of a restoration directive, shall restore the waters of the United States to their former conditions without expense to the United States and as directed by the Secretary of the Army or his/her authorized representative. If the permittee fails to comply with such a directive, the Secretary or his/her designee, may restore the waters of the United States to their former conditions, by contract or otherwise, and recover the cost from the permittee.
40. **Special conditions.** The Corps may impose other special conditions on a project authorized pursuant to this RP that are determined necessary to minimize adverse navigational and/or environmental effects or based on any other factor of the public interest. Failure to comply with all general conditions of the authorization, including special conditions, constitutes a permit violation and may subject the permittee, or his/her contractor, to criminal, civil, or administrative penalties and/or restoration.
41. **False or incomplete information.** In granting authorization pursuant to this permit, the Corps has relied upon 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 United States may institute appropriate legal proceedings.
42. **Abandonment.** If the permittee decides to abandon the activity authorized under this RP, unless such abandonment is merely the transfer of property to a third party, he/she may be required to restore the area to the satisfaction of the Corps.
43. **Transfer of authorization.** In order to transfer authorization under this RP, the transferee or permittee must supply the Corps with a written and signed, by all appropriate parties, request to make such a transfer. Such transfer is not effective until written approval has been granted by the Corps.

44. **Binding effect.** The provisions of the permit authorization shall be binding on any assignee or successor in interest of the original permittee.

General Conditions Regarding Duration of Authorizations, Time Extensions for Authorizations, and Permit Expiration:

45. **Duration of Activity's Authorization.** Activities authorized under 13-RP-02 must be completed by August 14, 2018. If this RP is reissued at that time, and if this work has not been started or completed, but the project continues to meet the terms and conditions of the revalidated RP, then the project will continue to be authorized. The Corps will issue a special public notice announcing any changes to the Regional Permits when they occur; however, it is incumbent upon you to remain informed of changes to the RPs. Activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon this RP that do not meet the terms and conditions of the revalidated RP will remain authorized provided the activity is completed within twelve months of the date of this RP's expiration (i.e. August 14, 2019), unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR Part 325.7(a-e). If work cannot be completed by August 14, 2019, you must reapply for separate permit authorization in order to meet current permit criteria.
46. **Expiration of 13-RP-02.** Unless further modified, suspended, or revoked, this general permit will be in effect until August 14, 2018. Upon expiration, it may be considered for revalidation. Activities completed under the authorization of a RP which was in effect at the time the activity was completed continue to be authorized by that RP.

AUG 13 2013

Date

PAUL B. OLSEN
Colonel, Corps of Engineers
Commanding

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
TIDEWATER REGIONAL OFFICE
5636 Southern Boulevard, Virginia Beach, Virginia 23462
(757) 518-2000 Fax (757) 518-2009
www.deq.virginia.gov

Doug Domenech
Secretary of Natural Resources

David K. Paylor
Director

Maria R. Nold
Regional Director

June 26, 2012

Robin D. Mills
United States Department of the Army
Fort Eustis
C/o Ms. Elizabeth Grey Waring, Chief
Operations Branch
U.S. Army Corps of Engineers
803 Front Street
Norfolk, Virginia 23510

Notification of No Permit Required
Joint Permit Application Number 12-0753
Skiffes Creek Navigation Project

Dear Ms. Waring:

The Department of Environmental Quality (DEQ) received your application on May 22, 2012, to maintenance dredge over a 15 year period, 500,000 cubic yards of material per cycle from three areas within the 4-mile long, 137-acre Skiffes Creek Federal Navigation Channel, which serves as the entrance to the Third Port, and is a tributary of the James River, and to pump the spoils via hydraulic pipeline to the Fort Eustis Dredged Material Management Area (FEDMMA), a confined upland facility, at Fort Eustis.

Provided your project qualifies(d) for a regional or nationwide permit from the U.S. Army Corps of Engineers (USACE) on which DEQ has provided § 401 Certification, and provided you comply with all the conditions of the USACE permit, a Virginia Water Protection (VWP) permit will not be required by the DEQ for this project. Should the size and scope of the project change, a permit may be required.

If you have any questions, please do not hesitate to contact me at me at (757) 518-2109 or margaret.emslie@deq.virginia.gov.

Sincerely,

Peggy Emslie
Project Manager

cc: Mr. John Evans, US Army Corps of Engineers, Norfolk District Office
Mr. Mike Johnson, Virginia Marine Resources Commission

COMMONWEALTH of VIRGINIA

Marine Resources Commission
2600 Washington Avenue
Third Floor
Newport News, Virginia 23607

Douglas W. Domenech
Secretary of Natural Resources

Jack G. Travelstead
Commissioner

May 31, 2012

Robin D. Mills
Department of the Army
C/o US Army Corp of Engineers
Attn: Elizabeth G. Waring
803 Front St
Norfolk, VA 23510

VMRC #**12-0753**

Dear Ms. Mills:

This will acknowledge receipt of a Joint Permit Application requesting authorization to maintenance dredge up to 500,000 cubic yards of State-owned subaqueous bottom within the channel approaching and including Skiffs Creek at the Third Port Facility, Fort Eustis, in the City of Newport News, VA. It is my understanding that the dredge area is within the Congressionally approved project channel and turning basin and that the spoil will be placed at the Fort Eustis Dredged Material Management Area (FEDMMA), therefore no authorization is required from VMRC for this project.

If you have any questions, please contact me at (757) 247-2255.

Sincerely,

J. Michael Johnson
Environmental Engineer

JMJ:jaj
HM
Cc: Applicant
Newport News Wetlands Board

John

City of Newport News
Department of Engineering

2400 Washington Avenue • Newport News, Virginia 23607
tel 757/926-8611 • fax 757/926-8300

U.S. ARMY CORPS OF ENGINEERS
RECEIVED
JUL 06 2012
BY

July 3, 2012

Robin D. Mills
Department of the Army
c/o US Army Corp of Engineers
Attn: Elizabeth G. Waring
803 Front Street
Norfolk, Virginia 23512

Re: NNWB #12-009; VRMC #12-0753

Dear Ms. Mills:

Since all activity for your proposed project to maintenance dredge up to 5000,000 cubic yards of state-owned subaqueous bottom within the channel approaching and including Skiffs Creek at the Third Port Facility is channelward of Mean High Water (MHW) at Fort Eustis Mulberry Island Reserve Fleet Facility, is outside the jurisdiction of the Newport News Wetlands Board and no permit will be required from this Board.

Sincerely,

Richard M. Harr, PWS, CES
Newport News Wetlands Board

Copy to: VMRC, Habitat Management Division
U.S. Army Corps of Engineers, Norfolk District
Director of Engineering
Director of Planning
Director of Codes Compliance
City Clerk
Wetlands Board