

APPENDIX D
COASTAL CONSISTENCY DETERMINATION

**Coastal Zone Management Act (CZMA) Consistency Determination
for the Skiffes Creek Channel located at the
Joint Base Langley-Eustis (JBLE) on Fort Eustis
in Newport News, Virginia**

On behalf of the 7th Transportation Brigade (Expeditionary) and 733d Civil Engineer Division at the U.S. Army Transportation Center Fort Eustis, this document provides the Commonwealth of Virginia with the U.S. Army Corps of Engineers, Norfolk District's (Corps) Coastal Consistency Determination (CCD) under CZMA section 307(c)(1) and 15 CFR Part 930, sub-part C, Skiffes Creek Channel maintenance dredging at the JBLE on Fort Eustis in Newport News, Virginia and dredged material disposal at the Norfolk Ocean Disposal Site (NODS). The information in this CCD is provided pursuant to 15 CFR Section 930.39.

Proposed Federal Agency Activity

The proposed federal action is the continued maintenance dredging of the Skiffes Creek Channel at Fort Eustis, Virginia consistent with previous maintenance cycles and CCD and dredged material disposal at the NODS. The NODS was officially designated as an ocean placement site in 1993 pursuant to Section 102c of the Marine Protection, Research, and Sanctuaries Act of 1972 (as amended, 33 U.S.C. 1401 et seq). The proposed action would entail mechanically dredging the Skiffes Creek Channel to an average depth of -23 feet mean lower low water (MLLW) for a length of 7,764 feet, -20 feet MLLW for a length of 690 feet, and -14 feet MLLW for a length of 715 feet. An estimated 325,000 cubic yards of material would be dredged during the current maintenance cycle. Each future dredging cycle may remove up to 1 MCY of sediment from the channel and suitable dredged material will be transported and disposed at the NODS in accordance with Section 103 of the MPRSA. A Supplemental Environmental Assessment (SEA) of the proposed action has been prepared by the U.S. Army corps of Engineers, Norfolk District.

Background

The 733d Engineer Division, an assigned tenant element of the U.S. Army Transportation Center Fort Eustis (USATCFE), is responsible for maintenance dredging of the Skiffes Creek Channel accessing the Third Port. The Third Port is a deepwater port used to train personnel in cargo logistics and vessel operations. The facility provides a safe harbor for the 7th Group's watercraft fleet and serves as a deployment platform for Army units. In addition, it is a joint service training facility for watercraft operators and cargo handlers. There are 61 vessels assigned to the Third Port and commercial vessels that access two industrial complexes located upstream also use Skiffes Creek.

Enforceable Policies

The Virginia Coastal Resources Management Program (VCP) contains the below enforceable policies (A-I). More information can be found in the Final Environmental Assessment for this project.

A. Fisheries Management

This program stresses the conservation and enhancement of finfish and shellfish resources and the promotion of commercial and recreational fisheries to maximize food production and recreational opportunities.

The SEA will be coordinated with the VMRC. The VMRC has issued a No Permit Required letter for the maintenance dredging of Skiffes Creek Channel through the permitting process.

B. Subaqueous Lands Management

This management program for subaqueous lands establishes conditions for granting or denying permits to use state-owned bottomlands based on considerations of potential effects on marine and fisheries resources, wetlands, adjacent or nearby properties, anticipated public and private benefits, and water quality standards established by the Department of Environmental Quality, Water Division.

Impacts to water quality will be minor and temporary, consisting of localized increases in turbidity due to dredging. There is no Submerged Aquatic Vegetation within the project area; therefore, no impacts are anticipated. Dredged material disposal at the NODS will occur in the territorial sea beyond state waters.

C. Wetlands Management

The purpose of the wetlands management program is to preserve tidal and non-tidal wetlands, prevent their despoliation, and accommodate economic development in a manner consistent with wetlands preservation.

Wetlands are located near the project area. There are no wetlands located in the project area; therefore, no impacts are anticipated.

D. Dunes Management

Dune protection is carried out pursuant to the Coastal Primary Sand Dune Protection Act and is intended to prevent destruction or alteration of primary dunes.

There are no sand dunes located in the project area; therefore, no impacts are anticipated.

E. Non-point Source Pollution Control

Virginia's Erosion and Sediment Control Law requires soil-disturbing projects to be designed to reduce soil erosion and to decrease inputs of chemical nutrients and sediments to the Chesapeake Bay, its tributaries, and other rivers and waters of the Commonwealth.

The proposed project will occur entirely within the navigation channel to be dredged and the NODS. No soil-disturbing activities are planned to occur during the proposed project, and thus the provisions of the erosion and sediment control program do not apply to the proposed project.

F. Point Source Pollution Control

Point source pollution control is accomplished through the implementation of the National Pollutant Discharge Elimination System permit program established pursuant to Section 402 of the Federal Clean Water Act and administered in Virginia as the Virginia Pollutant Discharge Elimination System permit program.

The proposed project will not involve the use or creation of any point sources of pollution pursuant to Section 402 of the Clean Water Act. Dredged material transport and discharges will be regulated under the MPRSA Section 103.

G. Shoreline Sanitation

The purpose of this program is to regulate the installation of septic tanks, set standards concerning soil types suitable for septic tanks, and specify minimum distances that tanks must be placed away from streams, rivers, and other waters of the Commonwealth.

The proposed project does not include the installation, removal, or maintenance of septic tanks.

H. Air Pollution Control

The program implements the Federal Clean Air Act to provide a legally enforceable State Implementation Plan for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS).

The Clean Air Act prohibits Federal entities from taking actions which do not conform to the State implementation plan (SIP) for attainment and maintenance of the national ambient air quality standards (NAAQS).

Fort Eustis lies within a maintenance area for ozone for National Ambient Air Quality Standards and has estimated that the air emissions due to the proposed project will not violate provisions of Virginia's State Implementation Plan. A Record of Non-applicability was prepared in conjunction with the 2003 EA and is applicable to the continued maintenance dredging activities at Skiffes Creek Channel.

I. Coastal Lands Management

Coastal Lands Management is a state-local cooperative program administered by the DCR's Division of Stormwater Management – Local Implementation (previously the Division of Chesapeake Bay Local Assistance) and 88 localities in Tidewater, Virginia established

pursuant to the Chesapeake Bay Preservation Act; Virginia Code §§ 10.1-2100 through 10.1-2114 and Chesapeake Bay Preservation Area Designation and Management Regulations; Virginia Administrative code 9 VAC10-20-10 et seq.

While NOAA has determined that the CZMA does not grant states regulatory authority over activities on federal lands, federal activities affecting Virginia's coastal resources must be consistent with the Bay Act and the Regulations as one of the enforceable programs of Virginia's Coastal Zone Management Program.

This project involves the removal of sediment from the James River and Skiffes Creek. The project does not involve any development.

Advisory Policies for Geographic Area of Particular Concern

a. Coastal Natural Resource Areas

Coastal Natural Resource Areas are areas that have been designated as vital to estuarine and marine ecosystems and/or are of great importance to areas immediately inland of the shoreline. These areas include the following resources: wetlands, aquatic spawning, nursing, and feeding grounds, coastal primary sand dunes, barrier islands, significant wildlife habitat areas, public recreation areas, sand gravel resources, and underwater historic sites.

The project area may contain spawning, nursing, and/or feeding grounds for finfish and shellfish. Habitat for finfish and shellfish will not be harmed and may be improved as a result of this project. Informal Section 7 consultation under the Endangered Species Act (ESA) for the maintenance dredging activities in Skiffes Creek Channel has been completed with the National Marine Fisheries Service (NMFS). Formal ESA Section 7 consultation was completed with NMFS for ocean disposal activities at the NODS has been completed with the NMFS. Essential Fish Habitat (EFH) Assessment was completed as part of the 2003 EA and an updated EFH worksheet has been coordinated with NOAA Fisheries. Both are included with the supplemental EA as an appendix.

b. Coastal Natural Hazard Areas

This policy covers areas vulnerable to continuing and severe erosion and areas susceptible to potential damage from wind, tidal, and storm related events including flooding. New buildings and other structures should be designed and sited to minimize the potential for property damage due to storms or shoreline erosion. The areas of concern are highly erodible areas and coastal high hazard areas, including flood plains.

The project area contains no coastal natural hazard areas; therefore, adherence to this program is not applicable.

c. Waterfront Development Areas

These areas are vital to the Commonwealth because of the limited number of areas suitable for waterfront activities. The areas of concern are commercial ports, commercial fishing piers, and community waterfronts.

There are no commercial fishing piers and/or community waterfronts located in the project area. This project, however, does provide access to ports, and keeping those ports operational is in accordance with the intent of this advisory policy.

Advisory Policies for Shorefront Access Planning and Protection

a. Virginia Public Beaches

These public shoreline areas will be maintained to allow public access to recreational resources.

There are no public beaches within the project area; consequently this project will not affect public access to beaches.

b. Virginia Outdoors Plan (VOP)

The VOP, which is published by Virginia's Department of Conservation and Recreation (DCR), identifies recreational facilities in the Commonwealth that provide recreational access. Prior to initiating any project, consideration should be given to the proximity of the project site to recreational resources identified in the VOP.

No public access points exist near the project site. The installation is guarded 24-hours per day.

c. Parks, Natural Areas, and Wildlife Management Areas

The recreational values of these areas should be protected and maintained.

The project area contains no Parks, Natural Areas, or Wildlife Management Areas.

d. Waterfront Recreational Land Acquisition

It is the policy of the Commonwealth to protect areas, properties, lands, or any estate or interest therein, of scenic beauty, recreational utility, historical interest, or unusual features which may be acquired, preserved, and maintained for the citizens of the Commonwealth.

This project does not limit the ability of the Commonwealth in any way to acquire, preserve, or maintain waterfront recreational lands.

e. Waterfront Recreational Facilities

Boat ramps, public landings, and bridges shall be designed, constructed, and maintained to provide points of water access when and where practicable.

This project does not involve the design, construction, or maintenance of any boat ramps, public landings, or bridges.

f. *Waterfront Historic Properties*

The Commonwealth has a long history of settlement and development, and much of that history has involved both shorelines and near-shore areas. The protection and preservation of historic waterfront properties is primarily the responsibility of the Virginia Department of Historic Resources.

Maintenance dredging activities have been coordinated with the State Historic Preservation Office (SHPO). Since the proposed action is maintenance dredging of channels previously dredged, the proposed action would not affect any known architectural or archeological resources listed in or eligible for the NRHP or Virginia Landmarks Register.

Determination

Based upon the following information, data, and analysis, the U.S. Army Corps of Engineers, Norfolk District, on behalf of the 7th Sustainment Transportation Group at the U.S. Army Transportation Center Fort Eustis, finds that is the dredging of the Skiffes Creek Channel and dredged material disposal at the NODS is consistent to the maximum extent practicable with the enforceable policies of the Virginia Coastal Resources Management Program.

Pursuant to 15 CFR Section 930.41, the Virginia Coastal Resources Management Program has 60 days from the receipt of this letter in which to concur with or object to this Consistency Determination, or to request an extension under 15 CFR section 930.41(b). Virginia's concurrence will be presumed if its response is not received by the U.S. Army Corps of Engineers on the 60th day from receipt of this determination.

4/21/14
Date

Elizabeth G. Waring
Elizabeth G. Waring
Chief, Operations Branch