



**U.S. Army Corps
Of Engineers**
Norfolk District

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

CENAO-CO-R
98-RP-15

REGIONAL PERMIT

Effective date: August 28, 1998

Expiration Date: August 28, 2003

Authorized Activity: To maintenance dredge existing ditches in navigable waters and waters of the United States for either mosquito control purposes or to maintain drainage from upland areas.

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 Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344) to maintenance dredge existing ditches in waters of the United States for either mosquito control purposes or to maintain drainage from upland areas subject to the limits and standards contained in both the special and general permit conditions outlined below.

Activities authorized under this regional permit do not require further authorization under the provisions contained in 33 CFR 325, Regulatory Programs of the Corps of Engineers, 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, standards, and limitations must receive separate Department of the Army authorization.

The intent of this authorization is to allow the public to maintain designed dimensions of both existing mosquito control ditches, and existing ditches that drain upland areas. Final dimensions of the maintained ditch shall not exceed the average dimensions of the original ditch. This general permit shall not be interpreted as authorizing any work other than that which is outlined in the general and special conditions. This general permit does not authorize construction of new drainage ditches or channelization of streams or other waterways.

Special Conditions:

1. The permittee shall notify the District Engineer in writing of his/her intent to maintenance dredge specific ditches prior to the commencement of the activity. The notification will include the following (a joint permit application is not required, but may be used for this purpose):
 - a. Name and address of permittee.
 - b. A map, preferably USGS topographic map, indicating the exact location of the ditch(es) to be maintained and the site for management of the excavated/dredged material.
 - c. A brief narrative describing the type of excavating/dredging equipment (e.g. dragline, backhoe, hand tools, etc.) to be used, the volume of material to be excavated, where the material is to be placed, and how the material is to be stabilized. Also, a plan view and cross section drawing that shows the

original design dimensions of the ditch(es) (using Mean Sea Level datum in tidal areas or Ordinary High Water in non-tidal areas) and the proposed maintenance specifications.

2. Maintenance excavation/dredging of drainage ditches authorized by this permit is limited to the removal of accreted material at an elevation above mean low water (tidal waters), or ordinary high water (non tidal waters). Any excavation/dredging below the plane of mean low water or ordinary high water must receive separate Department of the Army authorization.

3. Maintenance excavation/dredging of mosquito control ditches authorized by this permit is limited to the removal of accreted material at an elevation above mean sea level or ordinary high water. Any excavation/dredging below the plane of mean sea level or ordinary high water must receive separate Department of the Army authorization.

4. The excavated/dredged material will be placed on the existing berm to the extent practicable. However, if the amount of dredged material exceeds the storage capacity of the berm, then the material will be located in a specified upland management area (this regional permit does not authorize placement of the material in waters and/or wetlands). In conjunction with the maintenance work, the existing berm(s) adjacent to the ditches shall be breached at 50 foot intervals to an elevation equal to the adjacent wetlands. The breach must have a 5 foot bottom width. Berms that are less than 50 linear feet require one breach. If site conditions render breaching impractical, then the District Engineer may authorize an alternative plan. The District Engineer must be notified and approve the alternative plan prior to the commencement of the ditch maintenance.

5. If the permittee fails to comply with the terms of this regional permit, the Secretary of the Army or his authorized representative may direct the permittee to restore the waterway to its former condition, with no expense to the United States. If the permittee fails to comply with the directive, the Secretary or his representative may restore the area to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

6. When the work is associated with mosquito control, the permittee shall obtain a written statement from the Virginia State Health Department which states that the continued maintenance of the mosquito ditch is necessary to prevent the spread of mosquito borne disease. If this statement cannot be obtained, the permittee should contact the Virginia Department of Environmental Quality, Water Division, at (757)518-2000 regarding the need for a Virginia Water Protection Permit.

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

8. 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.

9. The temporary placement or double-handling of excavated or fill material channelward of mean high water or ordinary high water elevation is not authorized by this regional permit.

10. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water.

11. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

12. Any temporary fills must be removed in their entirety and the affected areas returned to their pre-existing elevation.

13. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

General Conditions:

1. This regional permit will authorize work undertaken within the geographical limits of the Commonwealth of Virginia under the regulatory jurisdiction of the Norfolk District.

2. 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.

3. (a) No activity is authorized under this permit 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, or which is likely to destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the Norfolk District if any listed species or critical habitat might be affected or is in the vicinity of the project and shall not begin work until notified by the district engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

(b) Authorization of an activity by a this permit does not authorize the “take” of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g. an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal “takes” of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained from the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their world web pages at

<http://www.fws.gov/~r9endspp/endspp.html>

and

http://kingfish.ssp.nmfs.gov/tmcintyr/prot_res.html#ES and Recovery

4. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized until the Norfolk District has complied with the provisions of 33 CFR 325, Appendix C. The prospective permittee must notify the Norfolk District if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the Norfolk District that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the Virginia Department of Historic Resources and the National Register of Historic Places.

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

6. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

7. Authorized activities must comply with Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations".
8. No activity may cause more than a minimal adverse effect on navigation.
9. No activity may substantially disrupt the movement of those species 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.
10. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date.
11. The construction or work authorized by this permit will be conducted in a manner so as to avoid any degradation of water quality and/or damage to aquatic life where possible, and minimize any degradation where unavoidable. Also, you will employ measures to prevent or control spills of fuels or lubricants from entering the waterway.
12. Permittees are expected to fully comply with Virginia Administrative Code 9 VAC 25-260-10, Water Quality Standards, and all other appropriate laws and regulations of the Commonwealth of Virginia pertaining to water quality.
13. The permittee will make every reasonable effort to conduct the construction or operation of the work authorized by this permit in a manner so as to minimize any adverse impact on fish, wildlife and natural environmental values.
14. Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance.
15. The permittee shall allow the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.
16. Failure to comply with the terms and conditions of this permit can result in enforcement actions against the permittee and/or contractor.
17. The provisions of this permit shall be binding on any assignee or successor in interest of the permittee.
18. In order to transfer this permit, the transferee must supply the Norfolk District with a written request to transfer the permit.
19. Should you be unable to complete the authorized activity in the time limit provided, you must submit your request for a time extension to this office for consideration at least one month before the permit expiration date.
20. In granting an authorization pursuant to this permit, the Norfolk District has relied on the information and data provided by the permittee. If, subsequent to notification by the Corps that a project qualifies for this permit, such information and data prove to be materially false or materially incomplete, the authorization may be suspended or revoked, in whole or in part, and/or the Government may institute appropriate legal proceedings.

21. Limits of this authorization:
 - a. This permit does not obviate the need to obtain other Federal, state or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal projects.
 - e. This permit does not grant any Corps real estate rights. If real estate rights are needed from the Corps, please contact Norfolk District's Real Estate Division at the address listed on the front page or telephone (757) 441-7735.

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

23. The Norfolk District may reevaluate its decision on your authorization under this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 20 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost. In addition, unpermitted work or violation of permit conditions may result in civil, criminal or administrative penalties (33 U.S.C. 1319 c, d, and g).

24. This regional permit, unless further modified, suspended or revoked, will be in effect until August 28, 2003. Upon expiration, it may be considered for revalidation.

25 August 1998

//Signed//

Date

Robert H. Reardon, Jr.
Colonel, Corps of Engineers
District Engineer