



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Peter W. Schmidt
Director

VWP Permit No. 93-1088
Effective Date: March 21, 1995
Expiration Date: March 21, 2005

P. O. Box 10009
Richmond, Virginia 23240-0009
(804) 762-4000

VIRGINIA WATER PROTECTION PERMIT

ISSUED PURSUANT TO THE STATE WATER CONTROL LAW

AND SECTION 401 OF THE CLEAN WATER ACT

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 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: U.S. Army Corps of Engineers
Civil Program Branch
Norfolk District

Address: 803 Front Street
Norfolk, Virginia 23510-1096

Activity Location: Tangier Island, Accomack County

Activity Description: To maintenance dredge Tangier Channel, a federal authorized navigation project. The project includes two separate channels: Tangier Channel to Tangier Sound and Tangier Channel to Chesapeake Bay. Approximately 80,000 cubic yards of material will be hydraulically dredged every two years, totaling 400,000 cubic yards over a ten year period. The dredged material will be used for beach nourishment on the Western shore of Tangier Island.

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



Director, Department of Environmental Quality

Date MARCH 21, 1995

PART I - SPECIAL CONDITIONS

1. The conditions and limitations specified in the application and the supplemental materials submitted by the owner shall be adhered to.
2. The permittee shall employ measures to prevent spills of fuels or lubricants into State waters. The Department of Environmental Quality must be notified if spills do occur (804/527-5200).
3. All construction and installation associated with the activity shall be accomplished in such a manner that construction material or waste material is not discharged into State waters.
4. The permittee shall advise the Department of Environmental Quality in writing when unusual or potentially complex conditions are encountered which require debris removal or involve potentially toxic pollutants, and shall not take measures to remove the obstruction, material, or toxic pollutant, or change the location of any structure until approval by the Department is received.
5. This permit authorizes maintenance dredging of Tangier Channels: Tangier Channel to Tangier Sound and Tangier Channel to Chesapeake Bay as indicated in the Joint Permit Application dated August 3, 1994.
6. All dredging shall be accomplished by hydraulic method.
7. Approximately 80,000 cubic yards of material are to be dredged from the Tangier Channels every two years for a total of approximately 400,000 cubic yards over a ten year period.
8. Tangier Channel to Tangier Sound, through this dredging project, shall be taken to a maximum depth of approximately - 10 feet MLW, including overdredging.
9. Tangier Channel to Chesapeake Bay, through this dredging project, shall be taken to a maximum depth of approximately - 9 feet MLW, including overdredging.
10. There will be no double-handling of dredged material in State waters.
11. The dredged material shall be used for beach nourishment on the western shore of Tangier Island in such a manner as

indicated in "Evaluation of Long-Term Dredged Material Disposal, Tangier Island, Virginia" document.

12. All dredged material shall be pumped by hydraulic method via pipeline to the disposal site in such a manner as to prevent leakage to State waters.
13. The end of the dredge pipe for pipelines going to the overboard disposal site shall have a baffle plate or other apparatus attached for the purposes of more precisely controlling the placement of dredged material and increasing the settlement rate of the material.
14. In the event of ruptured pipeline, dredging and disposal operations shall be immediately halted until repairs and clean up can be accomplished.
15. During dredging and disposal operations, no vegetated wetlands will be directly or indirectly impacted.
16. During dredging and disposal operations no submerged aquatic vegetation (SAV) shall be directly or indirectly impacted.
17. The placement of the dredged material shall be done in such a manner as to minimize undesirable obstruction to the water current or circulation pattern, and to utilize natural bottom contours to minimize the size of the mound.
18. A pre- and post- dredge survey of the channels and the disposal site shall be performed.
19. Water quality standards for pH, dissolved oxygen and temperature shall not be violated during dredging and disposal operations. These standards, from VR680-21-01.5, for Class II waters are as follows: pH (6.0-9.0 pH units); dissolved oxygen, 4.0 mg/l (minimum) and 5.0 mg/l (daily average); and a rise above ambient temperature of no more than 3° C from an appropriate upstream sampling point.

20. Monitoring

The approximate total of material dredged each cycle shall be recorded.

21. Reporting of Results

Results of monitoring shall be submitted within 60 days of the cessation of each dredging cycle to the DEQ - Water Division, OWRM/VWPP, P.O. Box 10009, Richmond, VA 23240-0009.

PART II - GENERAL CONDITIONS

A. Duty to Comply

The permittee shall comply with all conditions of the permit. Nothing in this permit 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

The permittee shall take all reasonable steps to:

1. Avoid all adverse environmental impact which could result from the activity;
2. Where avoidance is impractical, minimize the adverse environmental impact; and
3. 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 the 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 proposed 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 the 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 and control 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 permittee containing a specific date of transfer of 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 permittee of the State Water Control Board's 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 permittee shall notify the Department of Environmental Quality of any modification of this activity 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 a 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.

APR 11 1994