



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

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

**CENAO-REG
08-LOP-02**

LETTER OF PERMISSION

Effective Date: August 15, 2008

Expiration Date: August 15, 2013

I. AUTHORITIES:

08-LOP-02, Letter of Permission 2 (“LOP”), authorizes dredging (channels and basins) for certain navigationally-related recreational and commercial dredging projects, by either mechanical or hydraulic method, in waters of the United States, 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.

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 waters of the United States of the Commonwealth as further described herein and pursuant to the terms and conditions herein. The Corps’ authority and guidance to develop letters of permission is contained in 33 C.F.R. § 325.2(e)(1).

Activities receiving written authorization under this LOP do not require further authorization under the provisions contained in 33 C.F.R. § 325 unless the District Commander 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.

II. 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 has provided §401 Water Quality Certification for the 08-LOP-02 as meeting the requirements of the Virginia Water Protection Permit Regulation, which also serves as the Commonwealth’s §401 Water Quality Certification, provided that

Virginia Department of Environmental Quality (DEQ) determines the following additional conditions are met for each specific permit application:

- a. The prospective permittee has an adequately sized containment area to prevent overtopping of any containment berm used for upland disposal of dredged material.
- b. The prospective permittee has adequately addressed the need for liner or impermeable material to prevent leaching of any identified contaminants into ground water.
- c. The prospective permittee has ensured that the proposed dredging in waterbody segments on the current effective Section water 303(d) Total Maximum Daily Load (TMDL) priority list or water body segments with an approved TMDL will not exacerbate impairment of water body segments and that the dredging is consistent with any waste load allocation, limit, or conditions imposed by an approved TMDL.

Therefore, if the above conditions are met and/or do not apply, then activities that qualify for this LOP meet the requirements of Department of Environmental Quality's (DEQ) Virginia Water Protection Permit Regulation, provided that the permittee abides by the conditions of 08-LOP-02.

3. 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.*). Authorizations under this LOP do not obviate state or local government authority or responsibilities pursuant to the Act or to any State or local law or regulations.

III. PROCEDURES:

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 LOP 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. Applicants shall use the newest version of Joint Permit Applications ("JPA"), and 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/technical%20services/Regulatory%20branch/JPA.asp>
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).
3. The Corps will coordinate with and solicit comments from the US Fish and Wildlife Service, the Environmental Protection Agency, the NOAA Fisheries, the Virginia Marine Resources Commission, and the Virginia Department of Environmental Quality (“the Agencies”). The Agencies will have 15 days from the date the application information is transmitted by e-mail or fax to provide comments. For those projects where the Federal resource Agencies do not object, or where the applicant agrees to incorporate the Agencies’ recommendations, the project may be authorized by this LOP.
 4. Prospective permittees shall not begin the proposed dredging until notified in writing by the District Commander that the activity may proceed under this LOP, and must follow any additional special conditions imposed by the District Commander.

III. SPECIAL CONDITIONS:

1. No dredging of intertidal mudflats, wetlands, shellfish beds, or submerged aquatic vegetation is authorized.
2. 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.
3. In order to protect vegetated wetlands, a buffer distance of 4 X 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 .

4. The depth of dredging shall not exceed controlling depths of ingress/egress.
5. 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.
6. 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 insure compliance, if a permittee under this LOP 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 LOP, than an Individual Department of the Army permit will be required. Both the permittee under this LOP and any contractor performing work may be subject to substantial fines and penalties for any permit violation.
7. 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.
8. Any authorized dredging will only be performed during the following periods if located adjacent to certain resources:
 - Shellfish beds: April 1 through June 30 and October 1 through November 30
 - Submerged Aquatic vegetation: July 1 through March 1
 - Anadromous Fish Use Areas: July 1 through February 15
9. An upland dredged material management site or the Craney Island Dredged Material Management Area will be used for the disposal of dredged material. The disposal of dredged material into wetlands is not authorized by this permit.
10. If an upland dredged material management 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. The containment area must contain a liner or impermeable material to prevent leaching of any identified contaminants into ground water.
11. The Craney Island Dredged Material Management Area may be used if the 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). The dredged material must have proper erosion and sedimentation controls to prevent re-entry into the waterway. Please note that there are restrictions on the use of Craney Island, including that

it can only be used for placement of dredged material from certain waterways. You may call the Norfolk District at 757-201-7652 to determine if Craney Island can be used.

12. If Craney Island is used as the dredged material management site, certain special conditions and tolls will apply. These conditions will be included in your permit letter and will be considered additional special conditions of this permit.
13. 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.
14. 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.
15. Barges and scows used to transport dredged material may be filled only to a point where no overflow occurs. No overflow pipes are allowed.
16. By virtue of receipt of a letter stating that the proposed project meets the terms and conditions of this LOP, the permittee hereby agrees and understands 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 of Engineers to remove, relocate, or alter the structural work or obstructions caused thereby without expense to the United States. The permittee also hereby agrees that no claim shall be made against the United States on account of any such removal or alteration.

VI. GENERAL CONDITIONS:

The following conditions apply to all activities authorized under this Letter of Permission (LOP).

1. **Geographic jurisdiction.** This Letter of Permission will authorize work undertaken within the geographical limits of the Commonwealth of Virginia under the regulatory jurisdiction of the Norfolk District.
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 Norfolk District.
5. **Discretionary authority.** The Norfolk District Corps of Engineers District Commander 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 C.F.R. § 320.4(a)). This authority is exercised on a case-by-case basis.
6. **Single and complete projects.** This LOP shall only be applied to single and complete projects. For purposes of this LOP, a single and complete project means the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers and which has 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.
7. **Multiple permit authorizations.** This Letter of Permission may be combined with any Corps general permits (including Nationwide (NWP) or Regional Permits (RGP) for a single and complete project, as long as the acreage loss of waters of the United States authorized by the LOP/NWPs/RGPs does not exceed the acreage limit of the LOP/NWP/RGP with the highest specified acreage limit.
8. **Permit on-site.** The permittee shall ensure that a copy of the LOP 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 LOP authorization.

General Conditions Related to National Concerns:

9. **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 Norfolk District with the appropriate documentation to demonstrate compliance with those requirements. (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 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 Norfolk District 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 Norfolk District 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, State Historic Preservation Officer, Tribal Historic Preservation Officer, 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. If the permittee, during construction or work authorized herein, encounters a previously unidentified archaeological or other cultural resource, he/she must immediately stop work and notify the Norfolk District of what has been found. Coordination with the Virginia Department of Historic Resources will commence and the permittee will subsequently be advised when he/she may recommence work.

10. Tribal rights. No activity authorized may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

11. National 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 FWS, U.S. Forest Service, or National Park Service.

12. Endangered species.

(a) No activity is authorized under this LOP 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 LOP 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 commander with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees shall notify the district commander if any listed species or designated critical habitat might 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 commander that the requirements of the ESA have been satisfied and that the activity is authorized. Information on threatened and endangered species and their critical habitat can be obtained directly from the USFWS Virginia Field Office at 6669 Short Lane, Gloucester, VA 23061 and/or NOAA Fisheries Habitat Conservation Division, P.O. Box 1346, 7580 Spencer Road, Gloucester Point, VA 23062. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat,

notification must include the name(s) of the endangered or threatened species 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 commander will determine whether the proposed activity “may affect” or will have “no effect” to listed species and 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 listed species or 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 listed species or critical habitat, or until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NOAA Fisheries the district commander may add species-specific regional endangered species conditions to the LOP.

(e) Authorization of an activity by a LOP 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 U.S. FWS or the NOAA Fisheries, both lethal and non-lethal “takes” of protected species are in violation of the ESA.

- 13. 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 on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely effect 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, the applicant shall not begin work until the Corps has provided notification that the EFH consultation has concluded.
- 14. 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.
- 15. Federal navigation project.** Authorized activities may not interfere with any existing or proposed Federal navigation projects.
- 16. 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 Norfolk District, 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.

- 17. Floodplains.** All practicable efforts shall be made to conduct the work authorized by this LOP in a manner so as to avoid any adverse impact on the Federal Emergency Management Agency (FEMA) designated 100-year floodplain.
- 18. Real estate.** Activities authorized under this LOP do not grant any Corps real estate rights. If real estate rights are needed from the Corps, you must contact the Corps Real Estate Office at (757) 201-7736 or at the address listed on the front page of this permit.
- 19. Environmental Justice.** Activities authorized under this LOP must comply with Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations".
- 20. Federal liability.** In issuing this LOP, 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 LOP; (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:

- 21. Avoidance and minimization.** Discharges of dredged or fill material into waters of the United States shall be avoided and impacts minimized to the maximum extent practicable.
- 22. Heavy equipment in wetlands.** Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance.
- 23. Temporary fills.** All temporarily disturbed waters and wetlands must be restored to preconstruction contours as soon as these areas are no longer needed for their authorized purpose, and not later than completion of project construction. 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.
- 24. 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.
- 25. Aquatic life movements.** No authorized activities may substantially disrupt the movement 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. The Norfolk District has determined that fish and wildlife are most often present in any stream being crossed, in the absence of evidence to the contrary.
- 26. 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.

- 27. Obstruction of high flows.** Discharges of dredged or fill material must not permanently restrict or impede the passage of normal or expected high flows.
- 28. Waterbird breeding areas.** Discharges of dredged or fill material into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
- 29. 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. Coordination with DGIF and/or NOAA Fisheries 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.
- 30. Water supply intakes.** No discharge of dredged or fill material may occur in proximity of a public water supply intake except where the discharge is for adjacent bank stabilization.

General Procedural Conditions:

- 31. 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 shall allow the Norfolk District to make periodic inspections at any time deemed 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 Norfolk District reserves the right to require post-construction engineering drawings and/or surveys of any work authorized under this LOP, as deemed necessary on a case-by-case basis.
- 32. 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.
- 33. Property rights.** This LOP 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.
- 34. Modification, suspension, and revocation.** This LOP may be either modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 C.F.R. § 325.7. Any such action shall not be the basis for any claim for damages against the United States.
- 35. 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.
- 36. Special conditions.** The Norfolk District may impose other special conditions on a project authorized pursuant to this LOP 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.

- 37. False or incomplete information.** In granting authorization pursuant to this permit, the Norfolk District has relied upon information and data provided by the permittee. If, subsequent to notification by the Norfolk District 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.
- 38. Abandonment.** If the permittee decides to abandon the activity authorized under this LOP, 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 Norfolk District.
- 39. Transfer of authorization.** In order to transfer authorization under this LOP, the transferee or permittee must supply the Norfolk District with a written request. Such transfer is effective upon written approval by the Norfolk District of a transfer document signed by both parties evidencing that the transferee commits to assuming all responsibilities of the original permittee under the permit.
- 40. 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:

- 41. Duration of Activity's Authorization.** Activities authorized under 08-LOP-02 must be completed by August 15, 2013. If this LOP 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 LOP; then the project will continue to be authorized. The Norfolk District will issue a special public notice announcing any changes to this Letter of Permission when they occur; however, it is incumbent upon you to remain informed of changes to the LOPs. Activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon this LOP that do not meet the terms and conditions of the revalidated LOP will remain authorized provided the activity is completed within twelve months of the date of this LOP's expiration (i.e. August 15, 2014), unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 325.7(a-e). If work cannot be completed by August 15, 2014, you must reapply for separate permit authorization in order to meet current permit criteria.
- 42. Expiration of 08-LOP-02.** Unless further modified, suspended, or revoked, this permit will be in effect until August 15, 2013. Upon expiration, it may be considered for revalidation. Activities completed under the authorization of a LOP which was in effect at the time the activity was completed continue to be authorized by that LOP.

8/15/08
Date

Cheryl Anne
Acting District Commander
DIONYSIOS ANNINOS
Colonel, Corps of Engineers
Commanding