

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

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

**CENAO-REG
13-RP-15**

REGIONAL PERMIT

Effective date: August 15, 2013

Expiration Date: August 15, 2018

I. AUTHORITIES:

13-RP-15, Regional Permit 15 ("RP"), authorizes activities, not otherwise exempt¹, associated with the maintenance of existing drainage ditches² originally constructed in and previously authorized in navigable waters and waters of the United States for either mosquito control purposes or to maintain drainage from upland areas for the purposes of storm water management, subject to standards, limitations and conditions further set out herein.

This RP does not authorize construction of new ditches or the channelization, realignment, or relocation of streams or other waterways. The maintenance of the ditch cannot increase drainage capacity beyond the original as-built capacity nor can it expand the area drained by the ditch as originally constructed. This maintenance will not result in the discharge of dredged or fill material that causes the permanent loss of more than one-half (0.5) acre of wetlands associated with the proposed maintenance activity.

The permittee must submit written notification to the district engineer prior to commencing the activity if:

- 1) The volume of area excavated exceeds 10 cubic yards below the plane of the high tide line in tidal waters, or
- 2) The discharge of fill is in a special aquatic site, including wetlands.

The types of projects that may qualify for this RP:

Maintenance activities in tidal and navigable waters regulated under 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), may include, but are not limited to:

- a. Excavation of accumulated sediments to return the ditch to its original contours.

¹ Refer to Regulatory Guidance Letter No. 07-02, 33 CFR 323.4(a)(3) and 40 CFR 232.3(c)(3) for information on exempt activities.

² **Ditch** is defined as man-made linear feature excavated for the purpose of draining or directing surface or groundwater.

- b. The discharge of fill associated with the removal of sediment, debris, and emergent vegetation within the channel where normal water circulation is impeded.
- c. Re-shaping or stabilization of side slopes to return the ditch to original contours.
- d. Temporary structures, fills, and work necessary to conduct the maintenance activity.

Maintenance activities in non-tidal waters regulated only under Section 404 of the Clean Water Act (33 U.S.C. § 1344), may be considered exempt under Section 404(f)(1)(C) of the CWA (see also 33 CFR 323.4(a)(3) and 40 CFR 232.3(c)(3)).

Discharges of dredged or fill material associated with the maintenance (but not construction) of drainage ditches, are not prohibited by or otherwise subject to regulation under Section 404 of the CWA (i.e., these activities are exempt from the need to obtain a Section 404 permit from the Department of the Army (DA)).

Maintenance generally includes, but is not limited to, activities such as:

- a. The discharge of fill associated with the removal of sediment, debris, and emergent vegetation within the channel where normal water circulation is impeded.
- b. Re-shaping or stabilization of side slopes to return the ditch to original contours.
- c. Bank stabilization to prevent erosion where reasonably necessary using best management practices. Materials used for stabilization should be compatible with existing bank materials.
- d. Armoring, lining and/or piping. These activities qualify as maintenance only where a previously armored, lined, or piped section is being repaired and all work occurs within the footprint of the previous work.
- e. Replacement of existing control structures, where the original function is not changed and original approximate capacity is not increased.

Proponents should consult with the Corps to determine if the proposed work meets the above listed exempt maintenance activities.

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 maintain existing drainage ditches originally constructed in and previously authorized in navigable waters and waters of the United States for either mosquito control purposes or to maintain drainage from upland areas for the purposes of storm water management. This maintenance will not result in the discharge of dredged or fill material that causes the permanent loss of more than one-half (0.5) acre of wetlands associated with work or alteration in the entire reach³, and so long as the final dimensions of the maintained ditch do not exceed the average contours and dimensions of the original ditch. This RP does not authorize any work other than that which complies with the general and special conditions below.

³ The entire reach of the tributary that is of the same order (i.e., from the point of confluence, where two lower order tributaries meet to form the tributary, downstream to the point such tributary enters a higher order tributary).

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 Department of Environmental Quality (DEQ), the Virginia Marine Resources Commission (VMRC) and/or the local wetlands board. You may contact the DEQ at (757) 518-2000, the VMRC at (757) 247-2200, and/or your local government office for further information concerning their permit requirements.
2. When proposed 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 DEQ, Water Division, at (757) 518-2000 regarding the need for a Virginia Water Protection Permit.
3. The State Water Control Board provided unconditional §401 Water Quality Certification for the 13-RP-15. 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 terms and conditions of 13-RP-15.
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.

III. PROCEDURES:

1. Discharges causing a permanent loss of wetlands and/or waters of the U.S., or the volume of area excavated exceeds 10 cubic yards below the plane of the high tide line, require written notification to the Corps prior to commencing the activity. The activity is not authorized until the permittee receives written verification from the Corps that the project meets the terms and conditions of the permit. Any discharges causing a permanent loss which exceeds one-half (0.5) acre of wetlands and/or waters do not qualify for this RP and will require separate Department of the Army authorization.

2. 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.
 - d. 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) and the proposed maintenance specifications. If original drawings cannot be produced include drawings roughly depicting both the existing and proposed ditch maintenance project conditions. The extent of an existing ditch and its original dimensions should be determined and measured to the best of the applicant's ability.
 - e. The area calculation (in acres and/or linear feet) of water (including wetlands) to be impacted by the project and a classification of the waters using the US Fish and Wildlife Service's Cowardin System for classification of wetland and deep water systems.
 - f. A description of any adjoining and/or abutting wetlands and/or waters to the project area.
 - g. A proposal to compensate for any unavoidable and permanent losses of wetlands that may be drained or filled as a result of the planned activity.

IV. SPECIAL CONDITIONS:

1. Maintenance excavation/dredging of drainage ditches or mosquito control ditches authorized by this permit is limited to the removal of accreted or accumulated material at an elevation above mean low water in tidal waters. Any excavation/dredging below the plane of mean low water does not qualify for this RP and must receive separate Department of the Army authorization.
2. The removal of sediment, debris, and emergent vegetation within the channel should be limited to the minimum necessary to return normal flow and water circulation to the waterway. The grade and depth of the ditch bottom will not exceed the previously maintained grade or depth. In the absence of an established grade the elevation will be determined by the depth necessary to achieve sufficient flow not to exceed bottom grade of the nearest discharge.
3. When re-shaping side slopes to return the ditch to original contours every attempt will be made to leave the ditch banking / embankment intact including vegetation and root

structures which do not threaten to impede the flow of the water course but which offer natural stabilization to this structure.

4. This Regional Permit also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.
5. To avoid and minimize impacts to jurisdictional wetlands and/or waters of the U.S., the excavated/dredged material should be placed on existing upland berms or upland areas to the maximum extent possible. Preferred alternatives for dealing with the excavated/dredged material are listed below in order of preference. These alternatives should be considered during avoidance and minimization review.
 - a. If existing berms are being utilized and the amount of dredged material exceeds the storage capacity of existing berms, then the material should be located in a specified upland management area.
 - b. If placement of the excavated/dredged material in uplands is not practicable, then it may be placed in adjacent wetlands in a manner that does not impede the reach and flow of water in the system. With the Corps' approval, the discharge of fill associated with the removal of obstructions may be spread as thinly and evenly as possible in wetlands. Spoils will be feathered into existing grade on alternating sides of the ditch as site-specific conditions allow and so as not to impede lateral flow.
 - c. Existing or new berm(s) adjacent to the ditches shall be breached at 50 foot intervals to an elevation equal to any adjacent wetlands. The breach must have a five-foot bottom width. Berms that are less than 50 linear feet require one breach.
 - d. If site conditions render breaching impractical, then the District Engineer may authorize an alternative plan. Under such conditions, the District Engineer must be notified and ditch maintenance dredging cannot be commenced until the permittee obtains written approval from the District Engineer.
6. Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require written notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project specific waiver of this requirement. For wetland losses of 1/10-acre or less that require written notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

- a. The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.
- b. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.
- c. If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the Regional Permit verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

V. 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 that 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. The 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.

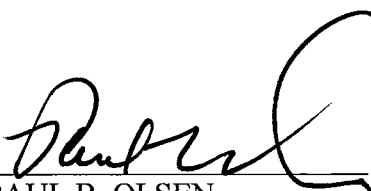
44. **Binding effect.** The provisions of the permit authorization shall be binding on any assignee or successor in interest of the original permittee.

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

45. **Duration of Activity's Authorization.** Activities authorized under 13-RP-15 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-15.** 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