

ENVIRONMENTAL ASSESSMENT

*Environmental Assessment  
Appendices*

*Fort Norfolk Pier Rehabilitation and Expansion Project  
USACE, Norfolk District, Fort Norfolk, Virginia*

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# APPENDIX B

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Agency Coordination  
and Public Participation

## Wright, Javier Ann F CIV USARMY CENAO (USA)

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**From:** Samantha Henderson <Samantha.Henderson@dhr.virginia.gov>  
**Sent:** Tuesday, August 16, 2022 8:39 AM  
**To:** Wright, Javier Ann F CIV USARMY CENAO (USA)  
**Subject:** [Non-DoD Source] Norfolk District (NAO) Pier Rehabilitation Project (DHR File No. 2022-4113) | e-Mail #03860

Dear Ms. Wright:

The Department of Historic Resources (DHR) has received through our ePIX system the referenced project for our review and comment. Based on the information provided, DHR concurs with the U.S. Army Corps of Engineers' determination that the historic properties in the area of potential effects will not be adversely affected by the undertaking.

Implementation of the undertaking in accordance with the finding of *no adverse effect* as documented fulfills the federal agency's responsibilities under Section 106 of the National Historic Preservation Act. If for any reason the undertaking is not or cannot be conducted as proposed in the finding, consultation under Section 106 must be reopened.

Thank you for your consideration of historic resources. Please contact me if you have any questions or if we may provide any further assistance.

Regards,

Sam Henderson, Archaeologist  
Division of Review and Compliance  
Phone: (804) 482-6088  
[Samantha.Henderson@dhr.virginia.gov](mailto:Samantha.Henderson@dhr.virginia.gov)



*Delaware Nation*

**Tribal Historic Preservation Department**

31064 State Highway 281

Anadarko, OK 73005

Phone (405)247-2448

June 14, 2022

To Whom It May Concern:

The Delaware Nation Historic Preservation Department received correspondence regarding the following referenced project(s).

**Project(s):** Norfolk District (NAO) Pier Rehab Project Norfolk VA

Our office is committed to protecting tribal heritage, culture, and religion with particular concern for archaeological sites potentially containing burials and associated funerary objects. The Lenape people occupied and/or interacted in the area indicated in your letter prior to European contact until their eventual removal to our present locations. **We accept your invitation to consult.** Since the proposed work is occurring within previously disturbed areas and rehabilitating the already developed pier, we concur that the proposed project should have **no adverse effect on** any known cultural or religious sites of interest to the Delaware Nation, but there is always the potential for discovery of archaeological resources in this area. Should the scope of the project be amended to include any additional ground-disturbing activity, you will need to reinitiate consultation with our office. **Please continue with the project as planned** keeping in mind during construction should human remains and/or any Native American archaeological resources inadvertently be uncovered, all construction and ground disturbing activities should immediately be halted until the appropriate state agencies, as well as this office, are notified (within 24 hours), and a proper archaeological assessment can be made.

Please note that Delaware Nation, the Delaware Tribe of Indians, and the Stockbridge Munsee Community are the only Federally Recognized Delaware/Lenape entities in the United States and consultation for Lenape homelands must be made with only the designated staff of these three Nations (and/or other federally recognized tribal nations who may have overlapping areas of interest). We appreciate your cooperation in contacting the Delaware Nation Historic Preservation Office to conduct proper Section 106 consultation. Should you have any questions, feel free to contact our offices at 405-247-2448 ext. 1403.

*Katelyn Lucas*

Katelyn Lucas  
Historic Preservation Assistant  
Delaware Nation  
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*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

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Travis A. Voyles  
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus  
Director  
(804) 698-4020

October 19, 2022

Ms. Shannon Reinheimer  
U.S. Army Corps of Engineers  
Sent via email: [Shannon.J.Reinheimer@usace.army.mil](mailto:Shannon.J.Reinheimer@usace.army.mil)

RE: U.S. Army Corps of Engineers Federal Consistency Determination: Fort Norfolk  
Pier Rehabilitation and Improvements Project, City of Norfolk (DEQ 22-146F)

Dear Mr. Reinheimer:

The Commonwealth of Virginia has completed its review of the federal consistency determination (FCD) for the above-referenced project. The Department of Environmental Quality (DEQ) is responsible for coordinating Virginia's review of FCDs and responding on behalf of the Commonwealth. The U.S. Army Corps of Engineers originally submitted the project on January 7, 2022. However, the FCD did not include an analysis of all of the enforceable policies. Therefore, DEQ requested additional information. This letter is in response to the FCD that was resubmitted on August 31, 2022. The following agencies participated in this review:

Department of Environmental Quality  
Department of Conservation and Recreation  
Department of Wildlife Resources  
Department of Health  
Department of Historic Resources  
Virginia Marine Resources Commission

The City of Norfolk and Hampton Roads Planning District Commission also were invited to comment.

## **PROJECT DESCRIPTION**

The U.S. Army Corps of Engineers (Corps) is proposing to rehabilitate the existing pier at Fort Norfolk in the City of Norfolk. The primary goal of the project is to modify the existing pier to allow for the safe mooring of three 65-foot vessels at Fort Norfolk and protect the mooring location from wave action and severe storm events. Construction on the north side of the pier would include a floating mooring system to allow for minimal adjustments of mooring lines during tidal fluctuations. A main floating dock with two finger floating docks (three slips) would be installed. The existing pier would be modified for new utilities as well as raised to accommodate rising tide levels and a new gangway would be added. Additionally, on the south side of the pier, a new boatlift for a Boston whaler vessel is proposed. All construction activities would occur over or in the Elizabeth River. The Corps does not propose upland land disturbing activities as a part of this project.

## **FEDERAL CONSISTENCY UNDER THE COASTAL ZONE MANAGEMENT ACT**

This FCD is submitted pursuant to the federal consistency regulation 15 Code of Federal Regulations Part 930 Subpart C Section 930.31. Pursuant to the Coastal Zone Management Act of 1972, as amended, federal activities located inside or outside of Virginia's designated coastal management area that can have reasonably foreseeable effects on coastal resources or coastal uses must, to the maximum extent practicable, be implemented in a manner consistent with the Virginia Coastal Zone Management (CZM) Program. The Virginia CZM Program consists of a network of programs administered by several agencies. In order to be consistent with the Virginia CZM Program, the project activities must be consistent with the enforceable policies of the Virginia CZM Program and all the applicable permits and approvals listed under the enforceable policies of the Virginia CZM Program must be obtained prior to commencing the project. DEQ coordinates the review of FCDs with agencies administering the enforceable and advisory policies of the Virginia CZM Program.

## **PUBLIC PARTICIPATION**

In accordance with 15 CFR §930.2, a public notice of this proposed action was published in the DEQ Office of Environmental Impact Review Program Newsletter and on the DEQ website from September 6, 2022 to October 3, 2022. No public comments were received in response to the notice.

## **FEDERAL CONSISTENCY CONCURRENCE**

The FCD states that the project is consistent to the maximum extent practicable with the enforceable policies of the Virginia CZM Program. The reviewing agencies that are responsible for the administration of the enforceable policies generally agree with the FCD. Based on the review of the FCD and the comments submitted by agencies administering the enforceable policies of the Virginia CZM Program, DEQ concurs that the proposed project is consistent with the Virginia CZM Program, provided all applicable permits and approvals are obtained as described below. In addition, in accordance with 15 CFR Part 930, subpart C, § 930.39(c), the federal agency has considered the advisory policies of the Virginia CZM Program. However, other state approvals which may apply to this project are not included in this FCD. Therefore, the federal agency must also ensure that this project is constructed and operated in accordance with all applicable federal, state and local laws and regulations.

## **ANALYSIS OF ENFORCEABLE POLICIES**

The analysis which follows responds to the discussion of the enforceable policies of the Virginia CZM Program that apply to this project and review comments submitted by agencies that administer these enforceable policies.

**1. Air Pollution Control.** The FCD (page 9) states that the proposed project would result in air emissions from the operation of the propulsion motors of harbor craft vessels, as well as auxiliary motors onboard each vessel. However, impacts to air quality would be negligible.

**1(a) Agency Jurisdiction.** The policy is administered by DEQ through the federal Clean Air Act and Virginia's legally enforceable State Implementation Plan for the attainment and maintenance of the National Ambient Air Quality Standards. It is the policy of the Commonwealth to abate, control, and prohibit air pollution throughout the Commonwealth (Virginia Code § 10.1-1308), to include: asphalt paving operations in volatile organic compound emission control areas (Virginia Code §§ 10.1-1308 and -1322; 9 VAC §§ 5-20-206 and -45-780), open burning (Virginia Code §§ 10.1-1308 and -1322; 9 VAC §§ 5-80-1105, -130-10, -130-30 to -50, 20-60-30, and 5-60-200), fugitive dust emissions (Virginia Code §§ 10.1-1308 and -1322; 9 VAC §§ 5-50-90 and -40-90), state operation permits (Virginia Code §§ 10.1-1308 and -1322; 9 VAC § 5-80-800), and new source review (Virginia Code §§ 10.1-1308 and -1322; 9 VAC §§ 5-80-1100, -1400, -1605, and -2000).

**1(b) Ozone Attainment Area.** According to the DEQ Air Division, the project site is located in an ozone attainment area and an emission control area for volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>), which are contributors to ozone pollution.

**1(c) Requirements – Fuel-Burning Equipment.** Fuel-burning equipment (generators, compressors, etc.) or any other air-pollution-emitting equipment may be subject to registration or permitting requirements.

**1(d) Agency Recommendation.** DEQ recommends that the applicant use all necessary precautions to restrict the emissions of VOCs and NO<sub>x</sub> during construction.

**1(e) Conclusion.** Provided the project complies with applicable requirements, it would be consistent to the maximum extent practicable with the point source air pollution enforceable policy of the Virginia CZM Program.

**2. Tidal and Non-Tidal Wetlands.** The FCD (page 4) states that the U.S. Fish and Wildlife Service National Wetlands Inventory (NWI) mapper has not identified any tidal or non-tidal wetlands in the channel on or near the project site. The closest wetlands identified are estuarine and marine wetlands located approximately 0.75 miles across the river. There would be no direct or indirect impacts to jurisdictional wetlands with implementation of this project.

**2(a) Agency Jurisdiction.** The purpose of the policy is to preserve and protect wetlands and non-tidal surface waters, to prevent their despoliation and destruction, and accommodate necessary economic development in a manner consistent with wetlands preservation. Impacts to wetlands and streams shall be avoided or minimized to the maximum extent practicable. Tidal Wetlands are administered by the Virginia Marine Resources Commission (VMRC) under the authority of the Tidal Wetlands Act of 1972 (*Virginia Code § 28.2-1301 and -1308; 4 VAC § 20-390-20*). Tidal and Nontidal Wetlands are administered by the Department of Environmental Quality (DEQ) through the Virginia Water Protection Permit program and includes Water Quality Certification pursuant to Section 401 of the Clean Water Act (*Virginia Code §§ 62.1-44.15:20 and -44.15:21; and 9 VAC §§ 25-210-10, -210-45, 210-80, 260-10, -380, -390*).

**2(b) VMRC Findings.** VMRC states that there are no tidal wetlands in close proximity to the project area.

**2(c) Requirements.** The DEQ Tidewater Regional Office (TRO) states that permanent or temporary impacts to surface waters and wetlands may require DEQ authorization under §401 of the Clean Water Act, Virginia Code §62.1-44.15:20, and Virginia Administrative Code 9 VAC 25-210-10 *et seq.*

**2(d) Conclusion.** Provided that any and all necessary permits are obtained and complied with, the project would be consistent to the maximum extent practicable with the tidal and non-tidal wetlands enforceable policy of the Virginia CZM Program.

**3. Wildlife and Inland Fisheries.** According to the FCD (page 7), the Corps has coordinated with National Oceanic and Atmospheric Administration Fisheries, which concurred that the proposed project would not substantially adversely affect essential fish habitat and a time-of-year restriction is not warranted. To mitigate against the acoustic impacts of pile driving on the surrounding environment, a soft start to pile driving of 15 minutes will be employed, allowing for affected species to escape the area after the vibratory start. Other mitigation measure and best management practices will be implemented as feasible. Sea turtles have been documented to migrate and forage through the project area. However, there is no critical habitat or nesting areas for sea turtles in the project area.

**3(a) Agency Jurisdiction.** The Department of Wildlife Resources (DWR) administers the enforceable policy for activities affecting wildlife and inland fisheries to ensure they do not negatively impact the Commonwealth's efforts in conserving, protecting, replenishing, propagating and increasing of the supply of game birds, game animals, fish and other wildlife of the Commonwealth (Virginia Code §§ 29.1-501, -512, -521, -530.2, -531, -533, -542, -543.1, -545, -548, -549, -550, -552, -554, -556, -569, and -574; 4 VAC §§ 15-30-10, -20, -50, and 15-290-60), fish or wildlife listed as threatened or endangered by the Department of Wildlife Resources Board (Virginia Code §§ 29.1-501, -564, -566, -567, and -568; 4 VAC §§ 15-20-130 and -140), the use of drugs on vertebrate wildlife (Virginia Code § 29.1-501 and -508.1), and nonindigenous aquatic nuisance, predatory, or undesirable species (Virginia Code §§ 29.1-501, -542, -543.1, -545, -569, -571, -574, and -575; 4 VAC §§ 15-20-210, -30-20, -30-40, and 15-290-60).

**3(b) Agency Findings.** DWR documents federally listed threatened and state-listed threatened Loggerhead Sea Turtles and state-listed threatened Peregrine Falcons from the project area. The Elizabeth River in the project area is designated a confirmed Anadromous Fish Use Area, known to support several species of anadromous fish. However, given the nature, scope, and specific location of the proposed work, DWR does not anticipate that it will result in significant adverse impacts upon any of the aforementioned species.

Several Colonial Waterbird Colonies, known to support multiple species of colonial waterbirds, are documented from the project area. Given the scope and location of the proposed work, DWR does not anticipate that it will result in significant adverse impacts upon colonial waterbirds.

A number of species designated as Species of Greatest Conservation Need in Virginia's Wildlife Action Plan are likely to occur, if suitable habitat exists, in and around the project area.

**3(c) Agency Recommendations.** DWR has the following recommendations:

- Check the Center for Conservation Biology Mapping Portal for the newest (2018) data on the locations of Colonial Waterbird Colonies in the Commonwealth.
- Conduct any in-stream activities during low or no-flow conditions, using non-erodible cofferdams or turbidity curtains to isolate the construction area, blocking no more than 50% of the streamflow at any given time (minimal overlap of construction footprint notwithstanding), stockpiling excavated material in a manner that prevents reentry into the stream, restoring original streambed and streambank contours, revegetating barren areas with native vegetation, and implementing strict erosion and sediment control measures.
- Design and perform instream work in a manner that minimizes impacts upon natural streamflow and movement of resident aquatic species. If a dam and pump-around must be used, use it for as limited a time as possible and ensure that water returned to the stream is free of sediment and excess turbidity.
- To minimize potential wildlife entanglements resulting from use of synthetic/plastic erosion and sediment control matting, use matting made from natural/organic materials such as coir fiber, jute, and/or burlap.
- To minimize harm to the aquatic environment and its residents resulting from use of the Tremie method to install concrete, installation of grout bags, and traditional pouring of concrete, ensure that such activities occur only in the dry, allowing all concrete to harden prior to contact with open water.
- Review the Virginia Wildlife Action Plan (available through [www.bewildvirginia.gov](http://www.bewildvirginia.gov)) to determine what threats are known to species designated as Species of Greatest Conservation Need in Virginia's Wildlife Action Plan, what constitutes suitable habitat for these species, and how to best protect them and their habitats from harm.
- This project is located within 2 miles of a documented occurrence of federally listed species. To ensure protection of such species, coordinate with the U.S. Fish and Wildlife Service (FWS) through its online project review process (<https://www.fws.gov/office/virginia-ecological-services/virginia-field-office-online-review-process>).

**3(d) Conclusion.** Assuming strict adherence to best management practices for erosion and sediment control is maintained, DWR finds this project to be consistent to the maximum extent practicable with the wildlife and inland fisheries enforceable policy of the Virginia CZM Program.

**4. Marine Fisheries.** The FCD (page 6) states that the proposed project may result in minor, adverse impacts on fishery resources through localized negative effects on water quality which may include decreases in dissolved oxygen, increased turbidity, and total suspended solids in the water column. Potential impacts to fisheries management will include temporary disturbance to feeding and localized movement patterns for species that may be within the project area. However, these impacts would be minor and temporary.

**4(a) Agency Jurisdiction.** The policy stresses the conservation and promotion of seafood and marine resources of the Commonwealth, including fish, shellfish and marine organisms, and manage the fisheries to maximize food production and recreational opportunities within the Commonwealth's territorial waters. The policy is administered by VMRC (*Virginia Code §§ 28.2-101, -201, -203, -203.1, -225, -551, -600, -601, -603 -618, and -1103, -1203 and the Constitution of Virginia, Article XI, Section 3*).

**4(b) Agency Findings.** VMRC states that no oyster leases or public clamming grounds are in the vicinity of the project area.

**4(c) Conclusion.** As proposed, the project would be consistent to the maximum extent practicable with the marine fisheries enforceable policy of the Virginia CZM Program.

**5. Subaqueous Lands.** According the FCD (page 5), the proposed action will be constructed on federally owned subaqueous lands. Impacts to water quality will be minor and temporary, consisting of localized increases in turbidity due to pile driving and construction activities. Additionally, the Virginia Institute of Marine Science (VIMS) submerged aquatic vegetation (SAV) data mapper did not identify SAV in the channel, within the project area, or near the project area.

**5(a) Agency Jurisdiction.** All decisions affecting subaqueous lands shall be guided by the Commonwealth's General Policy to conserve, develop, and utilize its natural resources, its public lands, and its historical sites and buildings and to protect its atmosphere, lands, and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth. The General Assembly has authorized VMRC to grant or deny any use of state-owned bottomlands, including dredging, aquaculture, the taking and use of material from the bottomland, and

the placement of wharves, bulkheads, and fill. (*Virginia Code §§ 28.2-1200, -1203, -1204 and -1205*).

**5(b) Agency Findings.** VMRC received the applicant's information on January 7, 2022, JPA #2022-0047. After completion of the JPA review process, a No Permit Necessary determination was issued by VMRC on April 25, 2022, since acts by a federal agency not constituting a permanent fill over State-owned submerged lands and for the purposes of commerce, navigation, national defense, and international affairs do not fall within the jurisdiction of VMRC.

**5(c) Requirement.** Coordinate with VMRC if the proposed project changes since a new review may be required relative to its jurisdictional areas.

**5(d) Conclusion.** As proposed, the project would be consistent to the maximum extent practicable with the subaqueous lands enforceable policy of the Virginia CZM Program.

**6. Point Source Water Pollution.** The FCD (page 9) states that the project does not involve point source discharges into state waters and therefore is not subject to Section 402 of the Clean Water Act. There will be no Section 404 or 401 fill with the proposed action. The proposed action will be regulated solely under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

**6(a) Agency Jurisdiction.** The policy is administered by DEQ to protect existing high quality state waters and restore all other state waters to permit all reasonable public uses and support the propagation and growth of all aquatic life. Legal authority is granted by the National Pollutant Discharge Elimination System (NPDES) permit program established pursuant to Section 402 of the federal Clean Water Act and administered by DEQ as the Virginia Pollutant Discharge Elimination System (VPDES) permit program (*Virginia Code § 62.1-44.2; 9 VAC § 25-31-20*).

**6(b) Agency Findings.** DEQ TRO states that there does not appear to be any point source discharges of process water or wastewater associated with this project that would necessitate a VPDES permit.

**6(c) Conclusion.** As proposed, the project would be consistent to the maximum extent practicable with the point source water pollution enforceable policy of the Virginia CZM Program.

## **ADDITIONAL ENVIRONMENTAL CONSIDERATIONS**

In addition to the enforceable policies of the Virginia CZM Program, comments also were provided with respect to applicable requirements and recommendations of the following programs:

### **1. Historic Structures and Architectural Resources.**

**1(a) Agency Jurisdiction.** The Virginia Department of Historic Resources (DHR) conducts reviews of both federal and state projects to determine their effect on historic properties. Under the federal process, DHR is the State Historic Preservation Office, and ensures that federal undertakings – including licenses, permits, or funding – comply with Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulation at 36 CFR Part 800. Section 106 requires federal agencies to consider the effects of federal projects on properties that are listed or eligible for listing on the National Register of Historic Places. For state projects or activities on state lands, DHR is afforded an opportunity to review and comment on (1) the demolition of state property; (2) major state projects requiring an EIR; (3) archaeological investigations on state-controlled land; (4) projects that involve a landmark listed in the Virginia Landmarks Register; (5) the sale or lease of surplus state property; (6) exploration and recovery of underwater historic properties; and (7) excavation or removal of archaeological or historic features from caves. See DHR's website for more information about applicable state and federal laws and how to submit an application for review: <http://www.dhr.virginia.gov/StateStewardship/Index.htm>.

**1(b) Agency Findings.** Pursuant to Section 106 of the National Historic Preservation Act, DHR has been in direct consultation with Corps and its agents regarding this project and the parties have reached consensus that the Fort Norfolk Pier Rehabilitation project will result in no adverse effect to historic properties.

### **2. Public Drinking Water.**

**2(a) Agency Jurisdiction.** The Virginia Department of Health (VDH) Office of Drinking Water (ODW) reviews projects for the potential to impact public drinking water sources (groundwater wells, springs and surface water intakes). VDH administers both federal and state laws governing waterworks operation.

**2(b) Agency Findings.** VDH ODW states that there are no public groundwater wells within a 1-mile radius of the project site. The following surface water intakes are located within a 5-mile radius of the project site:

PWS ID Number	System Name	Facility Name
3710100	NORFOLK, CITY OF	KRISTEN M LENTZ RAW INTAKE

The project is not within the watershed of any public surface water intakes.

The VDH Division of Shellfish Sanitation states that the project is in condemned shellfish waters already, and therefore, it has no comments on this project. The VDH Division of Environmental Epidemiology has no comments on this project.

**2(c) Agency Recommendations.** VDH has the following recommendations as applicable:

- Implement best management practices, including erosion and sedimentation controls and spill prevention controls and countermeasures, on the project site.
- Manage materials while on site and during transport to prevent impacts to nearby surface water.

**2(d) Requirements.** Potential impacts to public water distribution systems or sanitary sewage collection systems must be verified by the local utility.

**3. Pesticides and Herbicides.** In general, when pesticides or herbicides must be used, their use should be strictly in accordance with manufacturers' recommendations. In addition, DEQ recommends that the responsible agent use the least toxic pesticides or herbicides effective in controlling the target species. For more information on pesticide or herbicide use, please contact the Virginia Department of Agriculture and Consumer Services (804- 371-6560).

#### **4. Natural Heritage Resources.**

##### **4(a) Agency Jurisdiction.**

**4(a)(i) The Virginia Department of Conservation and Recreation's (DCR) Division of Natural Heritage (DNH):** DNH's mission is conserving Virginia's biodiversity through inventory, protection and stewardship. The Virginia Natural Area Preserves Act (Virginia Code §10.1-209 through 217), authorized DCR to maintain a statewide database for conservation planning and project review, protect land for the conservation of biodiversity, and to protect and ecologically manage the natural heritage resources of Virginia (the habitats of rare, threatened and endangered species, significant natural communities, geologic sites, and other natural features).

**4(a)(ii) The Virginia Department of Agriculture and Consumer Services (VDACS):** The Endangered Plant and Insect Species Act of 1979 (Virginia Code Chapter 39 §3.1-1020 through 1030) authorizes VDACS to conserve, protect and manage endangered and threatened species of plants and insects. Under a Memorandum of Agreement established between VDACS and the DCR, DCR represents VDACS in comments regarding potential impacts on state-listed threatened and endangered plant and insect species.

**4(b) Agency Findings – Natural Heritage.** According to the information currently in the Biotics Data System, natural heritage resources have not been documented within the submitted project boundary, including a 100-foot buffer. The absence of data may indicate that the project area has not been surveyed, rather than confirm that the area lacks natural heritage resources. In addition, the project boundary does not intersect any of the predictive models identifying potential habitat for natural heritage resources.

**4(c) Agency Findings – Threatened and Endangered Plant and Insect Species.** The current activity will not affect any documented state-listed plants or insects.

**4(d) Agency Findings – State Natural Area Preserves.** There are no State Natural Area Preserves under DCR's jurisdiction in the project vicinity.

**4(e) Agency Recommendations.** Contact the DCR DNH and resubmit project information if the scope of the project changes and/or six months has passed before it is utilized.

## **5. Solid and Hazardous Wastes.**

**5(a) Agency Jurisdiction.** On behalf of the Virginia Waste Management Board, the DEQ Division of Land Protection and Revitalization is responsible for carrying out the mandates of the Virginia Waste Management Act (Virginia Code § 10.1-1400 *et seq.*), as well as meeting Virginia's federal obligations under the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response Compensation Liability Act (CERCLA), commonly known as Superfund. The DEQ Division of Land Protection and Revitalization also administers those laws and regulations on behalf of the State Water Control Board which governs Petroleum Storage Tanks (Virginia Code § 62.1-44.34:8 *et seq.*), including Aboveground Storage Tanks (9VAC25-91 *et seq.*) and Underground Storage Tanks (9VAC25-580 *et seq.* and 9VAC25-580-370 *et seq.*), also known as Virginia Tank Regulations, and § 62.1-44.34:14 *et seq.* which covers oil spills. Virginia:

- Virginia Waste Management Act, Virginia Code § 10.1-1400 *et seq.*
- Virginia Solid Waste Management Regulations, 9VAC20-81
  - (9VAC20-81-620 applies to asbestos-containing materials)
- Virginia Hazardous Waste Management Regulations, 9VAC20-60
  - (9VAC20-60-261 applies to lead-based paints)
- Virginia Regulations for the Transportation of Hazardous Materials, 9VAC20-110.

Federal:

- Resource Conservation and Recovery Act (RCRA), 42 U.S. Code sections 6901 *et seq.*
- U.S. Department of Transportation Rules for Transportation of Hazardous Materials, 49 Code of Federal Regulations, Part 107
- Applicable rules contained in Title 40, Code of Federal Regulations.

**5(b) Agency Findings.** DLPR staff conducted a search (200-foot radius) of the project area of solid and hazardous waste databases (including petroleum releases) to identify waste sites in close proximity to the project area. DLPR identified two petroleum release site within the project area which might impact the project.

1. PC Number 20105081, Krisp Pak Property, 139 Riverview Ave, Norfolk, Virginia, Release Date: 11/19/2009, Status: Closed.
2. PC Number 19992274, True World Group, 900 Southampton Ave, Norfolk, Virginia, Release Date: 10/21/1998, Status: Closed.

DEQ records do not indicate any reported petroleum releases along the proposed project footprint.

**5(c) Agency Recommendations.** Evaluate the identified sites to establish their potential to impact the proposed project if not already completed. DEQ encourages all projects, including installation activities, to implement pollution prevention principles, including:

- the reduction, reuse and recycling of all solid wastes generated; and
- the minimization and proper handling of generated hazardous wastes.

**5(d) Requirements.**

- All necessary precautions should be taken to avoid or minimize potential environmental/health risks.

- Test and dispose of any soil that is suspected of contamination or wastes that are generated during construction-related activities in accordance with applicable federal, state and local laws and regulations.
- Conduct the installation and operation or the removal, relocation or closure of any regulated petroleum storage tanks – aboveground storage tank (AST) and underground storage tank (UST) – in accordance with the requirements of the Virginia Tank Regulations 9VAC25-91-10 *et seq.* (AST) and 9VAC25-580-10 *et seq.* (UST).
- If evidence of a petroleum release is discovered during implementation of this project, it must be reported to DEQ, as authorized by Virginia Code § 62.1-44.34.8 through 9 and 9VAC25-580-10 *et seq.*
- All structures being demolished or removed should be checked for asbestos-containing materials (ACM) and lead-based paint (LBP) prior to demolition. If ACM and LBP are found, in addition to the federal waste-related regulations mentioned above, state regulations 9VAC20-81-640 for ACM and 9VAC20-60-261 for LBP must be followed.

## REGULATORY AND COORDINATION NEEDS

**1. Air Quality Regulations.** The following regulation may apply during construction:

- Permits for fuel-burning equipment: 9VAC5-80-1100 *et seq.*

Contact DEQ TRO (John Brandt at [John.Brandt@deq.virginia.gov](mailto:John.Brandt@deq.virginia.gov)) for additional information on air regulations if necessary.

**2. Wetlands.** Permanent or temporary impacts to surface waters and wetlands may require DEQ authorization under §401 of the Clean Water Act, Virginia Code §62.1-44.15:20, and Virginia Administrative Code 9 VAC 25-210-10 *et seq.* If necessary, contact DEQ TRO (Jeff Hannah at 757-407-2510).

**3. Wildlife Resources.** Coordinate with DWR (Lee Brann at [Lee.Brann@dwr.virginia.gov](mailto:Lee.Brann@dwr.virginia.gov)) regarding its comments and recommendations as necessary. Coordinate with the FWS through its online project review process (<https://www.fws.gov/office/virginia-ecological-services/virginia-field-office-online-review-process>) to ensure compliance with federal laws and regulations.

**4. Subaqueous Lands.** Coordinate with VMRC (Ben Nettleton at [ben.nettleton@mrc.virginia.gov](mailto:ben.nettleton@mrc.virginia.gov)) if the proposed project changes since a new review may be required.

**5. Water Supply.** Potential impacts to public water distribution systems or sanitary sewage collection systems must be verified by the local utility. Contact VDH (Arlene Warren at [Arlene.Warren@vdh.virginia.gov](mailto:Arlene.Warren@vdh.virginia.gov)) for additional information about its comments if necessary.

**6. Natural Heritage Resources.** Contact the DCR DNH (804-371-2708) about its recommendations and to re-submit project information and a map for an update on natural heritage information if the scope of the project changes and/or six months has passed before it is utilized.

**7. Solid Waste and Hazardous Substances.** All solid waste, hazardous waste, and hazardous materials must be managed in accordance with all applicable federal, state, and local environmental regulations. Contact DEQ TRO (Melinda Woodruff at [melinda.woodruff@deq.virginia.gov](mailto:melinda.woodruff@deq.virginia.gov)) for additional information on waste management or requirements related to petroleum storage tanks if necessary.

**7(a) Asbestos-Containing Material.** It is the responsibility of the owner or operator of a renovation or demolition activity, prior to the commencement of the renovation or demolition, to thoroughly inspect the affected part of the facility where the operation will occur for the presence of asbestos, including Category I and Category II nonfriable asbestos-containing material (as applicable). Upon classification as friable or non-friable, all asbestos-containing material shall be disposed of in accordance with the Virginia Solid Waste Management Regulations (9VAC20-81-640) and transported in accordance with the Virginia regulations governing Transportation of Hazardous Materials (9VAC20-110-10 *et seq.*). Contact the DEQ Division of Land Protection and Revitalization (Carlos Martinez at 804-698-4575) and the Department of Labor and Industry (804-371- 2327) for additional information.

**7(b) Lead-Based Paint.** If applicable, this project must comply with the U.S. Department of Labor Occupational Safety and Health Administration (OSHA) regulations and with the Virginia Lead-Based Paint Activities Rules and Regulations. For additional information regarding these requirements, contact the Department of Professional and Occupational Regulation (804-367-8500).

Thank you for the opportunity to comment on this FCD. The detailed comments of reviewers are attached. If you have questions, please do not hesitate to call me at 804-659-1915 or Julia Wellman at (804) 774-8237.

Fort Norfolk NAO Pier  
DEQ 22-146F

Sincerely,

A handwritten signature in black ink that reads "Bettina Rayfield". The signature is written in a cursive, flowing style.

Bettina Rayfield, Manager  
Environmental Impact Review and Long Range  
Priorities Program

Enclosures

ec: Lee Brann, DWR  
Allison Tillett, DCR  
Arlene Warren, VDH  
Roger Kirchen, DHR  
Claire Gorman, VMRC  
Ben McFarlane, Hampton Roads PDC  
Seamus McCarthy, City of Norfolk



**DEPARTMENT OF ENVIRONMENTAL QUALITY  
TIDEWATER REGIONAL OFFICE**

Environmental Impact Review  
Coordination Review

**To:** Office of Environmental Impact Review

**From:** Jeff Hannah, Regional VWPP Program Manager

**Date:** September 23, 2022

**Project:** Fort Norfolk Pier Rehabilitation, DEQ #22-146F

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As requested, the DEQ Tidewater Regional Office has reviewed the supplied information and offers the following comments:

**Air Compliance Program :**

The following air regulations may be applicable: Virginia Administrative Code 9 VAC 5-50-60 *et seq.* which addresses the abatement of visible emissions and fugitive dust emissions, and Virginia Administrative Code 9 VAC 5-130-10 *et seq.* which addresses open burning. For additional information, contact John Brandt, DEQ-TRO at (757)407-2341.

**Land Program (Solid and Hazardous Waste):**

All construction and demolition waste, including any excess soil, must be characterized in accordance with the Virginia Hazardous Waste Management Regulations and disposed of at an appropriate facility as applicable.

For additional information, contact Melinda Woodruff, DEQ-TRO at [melinda.woodruff@deq.virginia.gov](mailto:melinda.woodruff@deq.virginia.gov) .

**Stormwater:**

A construction general permit (CGP) is required prior to commencement of land disturbing activities greater than 1 acre for the discharge of sediment from construction activities. An approved Erosion and Sediment Control Plan (<1 acre of land disturbance) or an approved Stormwater Management Plan (>1 acre of land disturbance) is required prior to commencement of any land disturbing activities. In addition, DEQ is the review authority for state and federal plan review and approval, within the Tidewater Region, to coincide with permit application processing. For additional information, contact Courtney Smith, DEQ-TRO at (757)493-1072.

**Virginia Water Protection Permit Program (VWPP):**

Potential adverse impacts to water quality and wetlands resulting from surface runoff due to construction activities must be minimized. This can be achieved by using Best Management Practices (BMPs). Permanent or temporary impacts to surface waters and wetlands may require DEQ authorization under §401 of the Clean Water Act, Virginia Code §62.1-44.15:20, and Virginia Administrative Code 9 VAC 25-210-10 *et seq.* Provided that any and all necessary permits are obtained and complied with, the project will be consistent with DEQ

program requirements. For additional information, contact Jeff Hannah, DEQ-TRO at (757)407-2510.

**Water Permit Program (VPDES):**

No comments as there does not appear to be any point source discharges of process water or wastewater associated with this project that would necessitate a VPDES permit.

**Petroleum Storage Tank Program:**

DEQ records do not indicate any reported petroleum releases along the proposed project footprint. If evidence of a petroleum release is discovered during implementation of this project, it must be reported to DEQ, as authorized by CODE # 62.1-44.34.8 through 19 and 9 VAC 25-580-10 et seq. Contact Ms. Melinda Woodruff at (757)407-2516. Petroleum-contaminated soils and ground water generated during implementation of this project must be properly characterized and disposed of properly.

Installation and operation of any regulated petroleum storage tank(s) either AST or UST must also be conducted in accordance with the Virginia Regulations 9 VAC 25-91-10 et seq and / or 9 VAC 25-580-10 et seq. Documentation and / or questions should be submitted to TRO Tanks at Tidewater Regional Office – 5636 Southern Blvd., Virginia Beach, VA 23462. [tro.tanks@deq.virginia.gov](mailto:tro.tanks@deq.virginia.gov).

Based on the submitted information, it appears the proposed project will result in a *[Level of impact]* environmental impact.



Wellman, Julia &lt;julia.wellman@deq.virginia.gov&gt;

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**ESSLog# 42492\_22-146F\_Fort Norfolk Pier Rehabilitation\_DWR\_HLB20221006**

1 message

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**Brann, LEE** <lee.brann@dwr.virginia.gov>

Thu, Oct 6, 2022 at 1:15 PM

To: Julia Wellman &lt;julia.wellman@deq.virginia.gov&gt;

Cc: rr nhreview &lt;nhreview@dcr.virginia.gov&gt;, Tamara Doucette &lt;tamara.doucette@dwr.virginia.gov&gt;, "Martin, Amy" &lt;amy.martin@dwr.virginia.gov&gt;

Ms. Wellman,

We have reviewed the subject project that proposes improvements to Fort Norfolk Pier in Norfolk. We document Federally Threatened State Threatened Loggerhead Sea Turtles and State Threatened Peregrine Falcons from the project area. The Elizabeth River in the project area is designated a confirmed Anadromous Fish Use Area, known to support several species of anadromous fish. However, given the nature, scope, and specific location of the proposed work, we do not anticipate that it will result in significant adverse impacts upon any of the aforementioned species.

Several Colonial Waterbird Colonies, known to support multiple species of colonial waterbirds, are documented from the project area. Given the scope and location of the proposed work, we do not anticipate that it will result in significant adverse impacts upon colonial waterbirds. However, we recommend checking the CCB Mapping Portal for the newest (2018) data on the locations of Colonial Waterbird Colonies in the Commonwealth.

We recommend conducting any in-stream activities during low or no-flow conditions, using non-erodible cofferdams or turbidity curtains to isolate the construction area, blocking no more than 50% of the streamflow at any given time (minimal overlap of construction footprint notwithstanding), stockpiling excavated material in a manner that prevents reentry into the stream, restoring original streambed and streambank contours, revegetating barren areas with native vegetation, and implementing strict erosion and sediment control measures. We recommend that instream work be designed and performed in a manner that minimizes impacts upon natural streamflow and movement of resident aquatic species. If a dam and pump-around must be used, we recommend it be used for as limited a time as possible and that water returned to the stream be free of sediment and excess turbidity. To minimize potential wildlife entanglements resulting from use of synthetic/plastic erosion and sediment control matting, we recommend use of matting made from natural/organic materials such as coir fiber, jute, and/or burlap. To minimize harm to the aquatic environment and its residents resulting from use of the Tremie method to install concrete, installation of grout bags, and traditional pouring of concrete, we recommend that such activities occur only in the dry, allowing all concrete to harden prior to contact with open water.

A number of species designated as Species of Greatest Conservation Need in Virginia's Wildlife Action Plan are likely to occur, if suitable habitat exists, in and around the project area. We recommend that the Virginia Wildlife Action Plan (available through [www.bewildvirginia.gov](http://www.bewildvirginia.gov)) be reviewed to determine what threats are known to these species, what constitutes suitable habitat for these species, and how to best protect them and their habitats from harm.

This project is located within 2 miles of a documented occurrence of a state or federal threatened or endangered plant or insect species and/or other Natural Heritage coordination species. Therefore, we recommend coordination with VDCR-DNH regarding protection of these resources.

This project is located within 2 miles of a documented occurrence of federally-listed species. To ensure protection of such species, we recommend coordination with the USFWS through their Online Project Review Process (<https://www.fws.gov/office/virginia-ecological-services/virginia-field-office-online-review-process>).

Assuming strict adherence to best management practices for erosion and sediment control is maintained, we find this project to be consistent with the Wildlife and Inland Fisheries and Commonwealth Lands Enforceable Policies of the Coastal Zone Management Program.

Thank you,



**Lee Brann**

**Environmental Services Biologist  
Wildlife Information and Environmental Services**

*he/him/his*

**P** 804.367.1295

**Department of Wildlife Resources**

*CONSERVE. CONNECT. PROTECT.*

**A** 7870 Villa Park Drive, P.O. Box 90778, Henrico, VA 23228

[www.VirginiaWildlife.gov](http://www.VirginiaWildlife.gov)



# COMMONWEALTH of VIRGINIA

*Marine Resources Commission*  
380 Fenwick Road  
Bldg 96  
Fort Monroe, VA 23651-1064

Travis A. Voyles  
Acting Secretary of Natural and  
Historic Resources

Jamie L. Green  
Commissioner

October 3, 2022

Department of Environmental Quality  
Attn: Julia Wellman  
1111 East Main Street  
Richmond, VA 23219

Re: Fort Norfolk Pier Rehabilitation DEQ #22-146F

Dear Ms. Wellman,

This will respond to the request for comments regarding the Federal Consistency Determination for the Fort Norfolk Pier Rehabilitation (DEQ #22-146F), prepared by the U.S. Army Corps of Engineers (USACE). Specifically, the USACE has proposed to add a floating mooring system with two finger piers and three slips and raise the elevation of the existing, open-pile pier and install 310 linear feet of steel breakwater wave screen and a 335 linear foot timber wave fence adjacent to the existing pier, with a 45 linear foot channelward extension terminating at a steel monopile with donut fender at federal property. The project is located in the City of Norfolk, Virginia.

We received the applicant's information on January 7, 2022, JPA #2022-0047. After completion of our JPA review process, a No Permit Necessary determination was issued by the agency on April 25, 2022, since acts by a federal agency not constituting a permanent fill over State-owned submerged lands and for the purposes of commerce, navigation, national defense, and international affairs do not fall within the jurisdiction of the Marine Resources Commission.

Please be advised that the VMRC pursuant to Chapters 12, 13, and 14 of Title 28.2 of the Code of Virginia administers permits required for submerged lands, tidal wetlands, and beaches and dunes. Additionally, the VMRC administers the enforceable policies of fisheries management, subaqueous lands, tidal wetlands, and coastal primary sand dunes and beaches, which comprise some of Virginia's Coastal Zone Management Program. VMRC staff has reviewed the submittal and offers the following comments:

**Fisheries and Shellfish:** No oyster leases or public clamming grounds are in the vicinity of the project area.

**Submerged Lands:** The proposed project will be constructed on Federally-owned subaqueous lands.

**Tidal Wetlands:** None in close proximity to the project area.

**Beaches and Coastal Primary Sand Dunes:** None in close proximity to the project area.

*An Agency of the Natural Resources Secretariat*  
[www.mrc.virginia.gov](http://www.mrc.virginia.gov)

Telephone (757) 247-2200 (757) 247-2292 V/TDD Information and Emergency Hotline 1-800-541-4646 V/TDD

Department of Environmental Quality  
October 3, 2022  
Page Two

As proposed, we have no objection to the consistency findings provided by the applicant. Should the proposed project change, a new review by this agency may be required relative to these jurisdictional areas.

Please contact me at (757) 247-8027 or by email at [ben.nettleton@mrc.virginia.gov](mailto:ben.nettleton@mrc.virginia.gov) if you have questions. Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Ben Nettleton". The signature is written in a cursive style with a large initial "B" and "N".

Ben Nettleton  
Environmental Engineer, Habitat Management

BN/cg  
HM



Wellman, Julia &lt;julia.wellman@deq.virginia.gov&gt;

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**Fwd: NEW PROJECT ACOE Fort Norfolk Pier Rehabilitation, DEQ 22-146F**

1 message

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**Henderson, Samantha** <samantha.henderson@dhr.virginia.gov>  
To: Julia.Wellman@deq.virginia.gov

Fri, Sep 2, 2022 at 12:02 PM

Dear Ms. Wellman:

Thank you for requesting comments from the Department of Historic Resources (DHR) on this project. Pursuant to Section 106 of the National Historic Preservation Act, DHR has been in direct consultation with *US Army Corps of Engineers (Corps)* and its agents regarding this project and the parties have reached consensus that the *Fort Norfolk Pier Rehabilitation* project will result in *no adverse effect to historic properties*. DHR has no further comment at this time.

Regards,

Sam Henderson, Archaeologist

Division of Review and Compliance

----- Forwarded message -----

From: **Fulcher, Valerie** <valerie.fulcher@deq.virginia.gov>

Date: Thu, Sep 1, 2022 at 3:22 PM

Subject: NEW PROJECT ACOE Fort Norfolk Pier Rehabilitation, DEQ 22-146F

To: rr dgif-ESS Projects &lt;essprojects@dgif.virginia.gov&gt;, rr DCR-PRR Environmental Review &lt;envreview@dcr.virginia.gov&gt;, odwreview (VDH) &lt;odwreview@vdh.virginia.gov&gt;, Carlos Martinez &lt;carlos.martinez@deq.virginia.gov&gt;, Kotur Narasimhan &lt;kotur.narasimhan@deq.virginia.gov&gt;, Jeffrey Hannah &lt;jeffrey.hannah@deq.virginia.gov&gt;, Roger Kirchen &lt;roger.kirchen@dhr.virginia.gov&gt;, rr MRC - Scoping &lt;scoping@mrc.virginia.gov&gt;, Ben McFarlane &lt;bmcfarlane@hrpdca.gov&gt;, &lt;seamus.mccarthy@norfolk.gov&gt;

Cc: Wellman, Julia &lt;julia.wellman@deq.virginia.gov&gt;

**Good afternoon - this is a new OEIR review request/project:****Document Type: Federal Consistency Determination****Project Sponsor: U.S. Army Corps of Engineers****Project Title: Fort Norfolk Pier Rehabilitation****Location: City of Norfolk****Project Number: DEQ #22-146F****The document is attached.**

The due date for comments is **SEPTEMBER 30, 2022**. You can send your comments either directly to **JULIA WELLMAN** by email (**Julia.Wellman@deq.virginia.gov**), or you can send your comments by regular interagency/U.S. mail to the Department of Environmental Quality, Office of Environmental Impact Review, P.O. Box 1105, Richmond, VA 23218.

If you cannot meet the deadline, please notify the project coordinator prior to the comment due date. Arrangements may be made to extend the deadline for comments if possible. An agency will be considered to have no concerns if comments are not received (or contact is made) within the review period. However, it is important that agencies consistently participate in accordance with Virginia Code Section 10.1-1192.

**REVIEW INSTRUCTIONS:**

- A. Please review the document carefully. If the proposal has been previously reviewed (e.g. as a draft EIS or a Part 1 EIR), please consider whether your earlier comments have been adequately addressed.**
  
- B. Prepare your agency's comments in a form which would be acceptable for responding directly to a project proponent agency (agency stationary or email) and include the project number on all correspondence.**

**If you have any questions, please email Julia.**

**Thanks!**

**Valerie**

--

**Valerie A. Fulcher, CAP, OM, Admin/Data Coordinator Senior**

**Department of Environmental Quality**

**Environmental Enhancement - Office of Environmental Impact Review**

**1111 East Main Street**

**Richmond, VA 23219**

**NEW PHONE NUMBER: 804-659-1550**

**Email: [Valerie.Fulcher@deq.virginia.gov](mailto:Valerie.Fulcher@deq.virginia.gov)**

**<https://www.deq.virginia.gov/permits-regulations/environmental-impact-review>**

**OUR ENFORCEABLE POLICIES HAVE BEEN UPDATED FOR 2021: <https://www.deq.virginia.gov/permits-regulations/environmental-impact-review/federal-consistency>**

For program updates and public notices please subscribe to Constant Contact: <https://lp.constantcontact.com/su/MVcCump/EIR>

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**Samantha Henderson**

Project Review Archaeologist

Review and Compliance Division | Virginia Department of Historic Resources

(804)482-6088



**2 Final Signed CZMA Fort Norfolk Pier Package Aug 2022.pdf**

5077K



Wellman, Julia &lt;julia.wellman@deq.virginia.gov&gt;

## Re: NEW PROJECT ACOE Fort Norfolk Pier Rehabilitation, DEQ 22-146F

1 message

**Warren, Arlene** <arlene.warren@vdh.virginia.gov>  
 To: Julia Wellman <julia.wellman@deq.virginia.gov>  
 Cc: rr Environmental Impact Review <eir@deq.virginia.gov>

Mon, Sep 26, 2022 at 7:42 AM

**Project Name: Fort Norfolk Pier Rehabilitation**

**Project #: 22-146 F**

UPC #: N/A

**Location: City of Norfolk**

VDH – Office of Drinking Water has reviewed the above project. Below are our comments as they relate to proximity to **public drinking water sources** (groundwater wells, springs and surface water intakes). Potential impacts to public water distribution systems or sanitary sewage collection systems **must be verified by the local utility**.

There are no public groundwater wells within a 1-mile radius of the project site.

The following surface water intakes are located within a 5 mile radius of the project site:

PWS ID Number	System Name	Facility Name
3710100	NORFOLK, CITY OF	KRISTEN M LENTZ RAW INTAKE

The project is not within the watershed of any public surface water intakes.

- Comments from **OEHS Division of Shellfish Sanitation, Mr. Adam Wood** were *“This permit is in Condemned Shellfish waters already, therefore VDH Shellfish has no comments on this project.”*
- **Environmental Epidemiology, Mr. Dwight Flammia, Ph.D. State Public Health Toxicologist** had no comments on this project.

Best Management Practices should be employed, including Erosion & Sedimentation Controls and Spill Prevention Controls & Countermeasures on the project site.

Materials should be managed while on site and during transport to prevent impacts to nearby surface water.

***The Virginia Department of Health – Office of Drinking Water appreciates the opportunity to provide comments. If you have any questions, please let me know.***

Best Regards,

Arlene F. Warren  
 GIS Program Support Technician  
 Virginia Department of Health, Office of Drinking Water  
 109 Governor Street, 6th Floor  
 Richmond, VA 23219  
 804-356-6658 (office/cell/text)

On Thu, Sep 1, 2022 at 3:22 PM Fulcher, Valerie <valerie.fulcher@deq.virginia.gov> wrote:

**Good afternoon - this is a new OEIR review request/project:**

**Document Type: Federal Consistency Determination**  
**Project Sponsor: U.S. Army Corps of Engineers**  
**Project Title: Fort Norfolk Pier Rehabilitation**  
**Location: City of Norfolk**  
**Project Number: DEQ #22-146F**

The document is attached.

The due date for comments is **SEPTEMBER 30, 2022**. You can send your comments either directly to JULIA WELLMAN by email ([Julia.Wellman@deq.virginia.gov](mailto:Julia.Wellman@deq.virginia.gov)), or you can send your comments by regular interagency/U.S. mail to the Department of Environmental Quality, Office of Environmental Impact Review, P.O. Box 1105, Richmond, VA 23218.

If you cannot meet the deadline, please notify the project coordinator prior to the comment due date. Arrangements may be made to extend the deadline for comments if possible. An agency will be considered to have no concerns if comments are not received (or contact is made) within the review period. However, it is important that agencies consistently participate in accordance with Virginia Code Section 10.1-1192.

#### REVIEW INSTRUCTIONS:

- A. Please review the document carefully. If the proposal has been previously reviewed (e.g. as a draft EIS or a Part 1 EIR), please consider whether your earlier comments have been adequately addressed.
- B. Prepare your agency's comments in a form which would be acceptable for responding directly to a project proponent agency (agency stationary or email) and include the project number on all correspondence.

If you have any questions, please email Julia.

Thanks!

Valerie

--

Valerie A. Fulcher, CAP, OM, Admin/Data Coordinator Senior

Department of Environmental Quality

Environmental Enhancement - Office of Environmental Impact Review

1111 East Main Street

Richmond, VA 23219

**NEW PHONE NUMBER: 804-659-1550**

Email: [Valerie.Fulcher@deq.virginia.gov](mailto:Valerie.Fulcher@deq.virginia.gov)

<https://www.deq.virginia.gov/permits-regulations/environmental-impact-review>



**COMMONWEALTH of VIRGINIA**  
DEPARTMENT OF CONSERVATION AND RECREATION

Darryl Glover  
Deputy Director

*Dam Safety,  
Floodplain*

*Soil and Water*

**MEMORANDUM**

DATE: September 29, 2022  
TO: Julia Wellman  
FROM: Allison Tillett, Environmental Impact Review Coordinator  
SUBJECT: DEQ 22-146F, Fort Norfolk Pier Rehabilitation

**Division of Planning and Recreation Resources**

The Department of Conservation and Recreation (DCR), Division of Planning and Recreational Resources (PRR), develops the *Virginia Outdoors Plan* and coordinates a broad range of recreational and environmental programs throughout Virginia. These include the Virginia Scenic Rivers program; Trails, Greenways, and Blueways; Virginia State Park Master Planning and State Park Design and Construction. PRR also administers the Land & Water Conservation Fund (LWCF) program in Virginia.

**Division of Natural Heritage**

The Department of Conservation and Recreation's Division of Natural Heritage (DCR) has searched its Biotics Data System for occurrences of natural heritage resources from the area outlined on the submitted map. Natural heritage resources are defined as the habitat of rare, threatened, or endangered plant and animal species, unique or exemplary natural communities, and significant geologic formations.

According to the information currently in Biotics, natural heritage resources have not been documented within the submitted project boundary including a 100 foot buffer. The absence of data may indicate that the project area has not been surveyed, rather than confirm that the area lacks natural heritage resources. In addition, the project boundary does not intersect any of the predictive models identifying potential habitat for natural heritage resources.

There are no State Natural Area Preserves under DCR's jurisdiction in the project vicinity.

Under a Memorandum of Agreement established between the Virginia Department of Agriculture and Consumer Services (VDACS) and the DCR, DCR represents VDACS in comments regarding potential impacts on state-listed threatened and endangered plant and insect species. The current activity will not affect any documented state-listed plants or insects.

New and updated information is continually added to Biotics. Please re-submit project information and map for an update on this natural heritage information if the scope of the project changes and/or six months has passed before it is utilized.

The Virginia Department of Wildlife Resources (VDWR) maintains a database of wildlife locations, including threatened and endangered species, trout streams, and anadromous fish waters that may contain information not documented in this letter. Their database may be accessed from <http://vafwis.org/fwis/> or contact Amy Martin at (804-367-2211) or [amy.martin@dwr.virginia.gov](mailto:amy.martin@dwr.virginia.gov).

### Division of State Parks

DCR's Division of State Parks is responsible for acquiring and managing, state parks. Park development and master planning are managed by the Division of Planning and Recreation Resources. Master plans are required prior to a parks opening and are updated every ten years (Virginia Code § 10.1-200 *et seq.*).

### Division of Dam Safety and Floodplain Management

#### Dam Safety Program:

The Dam Safety program was established to provide proper and safe design, construction, operation and maintenance of dams to protect public safety. Authority is bestowed upon the program according to *The Virginia Dam Safety Act*, Article 2, Chapter 6, Title 10.1 (10.1-604 *et seq.*) of the Code of Virginia and Dam Safety Impounding Structure Regulations (Dam Safety Regulations), established and published by the Virginia Soil and Water Conservation Board (VSWCB).

#### Floodplain Management Program:

The National Flood Insurance Program (NFIP) is administered by the Federal Emergency Management Agency (FEMA), and communities who elect to participate in this voluntary program manage and enforce the program on the local level through that community's local floodplain ordinance. Each local floodplain ordinance must comply with the minimum standards of the NFIP, outlined in 44 CFR 60.3; however, local communities may adopt more restrictive requirements in their local floodplain ordinance, such as regulating the 0.2% annual chance flood zone (Shaded X Zone).

All development within a Special Flood Hazard Area (SFHA), as shown on the locality's Flood Insurance Rate Map (FIRM), must be permitted and comply with the requirements of the local floodplain ordinance.

#### State Agency Projects Only

[Executive Order 45](#), signed by Governor Northam and effective on November 15, 2019, establishes mandatory standards for development of state-owned properties in Flood-Prone Areas, which include Special Flood Hazard Areas, Shaded X Zones, and the Sea Level Rise Inundation Area. These standards shall apply to all state agencies.

1. Development in Special Flood Hazard Areas and Shaded X Zones
  - A. All development, including buildings, on state-owned property shall comply with the locally-adopted floodplain management ordinance of the community in which the state-owned property is located and any flood-related standards identified in the Virginia Uniform Statewide Building Code.
  - B. If any state-owned property is located in a community that does not participate in the NFIP, all development, including buildings, on such state-owned property shall comply with the NFIP requirements as defined in 44 CFR §§ 60.3, 60.4, and 60.5 and any flood-related standards identified in the Virginia Uniform Statewide Building Code.

- (1) These projects shall be submitted to the Department of General Services (DGS), for review and approval.
  - (2) DGS shall not approve any project until the State NFIP Coordinator has reviewed and approved the application for NFIP compliance.
  - (3) DGS shall provide a written determination on project requests to the applicant and the State NFIP Coordinator. The State NFIP Coordinator shall maintain all documentation associated with the project in perpetuity.
- C. No new state-owned buildings, or buildings constructed on state-owned property, shall be constructed, reconstructed, purchased, or acquired by the Commonwealth within a Special Flood Hazard Area or Shaded X Zone in any community unless a variance is granted by the Director of DGS, as outlined in this Order.

The following definitions are from Executive Order 45:

*Development for NFIP purposes is defined in 44 CFR § 59.1 as “Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.”*

*The Special Flood Hazard Area may also be referred to as the 1% annual chance floodplain or the 100-year floodplain, as identified on the effective Flood Insurance Rate Map and Flood Insurance Study. This includes the following flood zones: A, AO, AH, AE, A99, AR, AR/AE, AR/AO, AR/AH, AR/A, VO, VE, or V.*

*The Shaded X Zone may also be referred to as the 0.2% annual chance floodplain or the 500-year floodplain, as identified on the effective Flood Insurance Rate Map and Flood Insurance Study.*

*The Sea Level Rise Inundation Area referenced in this Order shall be mapped based on the National Oceanic and Atmospheric Administration Intermediate-High scenario curve for 2100, last updated in 2017, and is intended to denote the maximum inland boundary of anticipated sea level rise.*

*“State agency” shall mean all entities in the executive branch, including agencies, offices, authorities, commissions, departments, and all institutions of higher education.*

*“Reconstructed” means a building that has been substantially damaged or substantially improved, as defined by the NFIP and the Virginia Uniform Statewide Building Code.*

#### Federal Agency Projects Only

Projects conducted by federal agencies within the SFHA must comply with federal Executive Order 11988: Floodplain Management.

DCR’s Floodplain Management Program does not have regulatory authority for projects in the SFHA. The applicant/developer must reach out to the local floodplain administrator for an official floodplain determination and comply with the community’s local floodplain ordinance, including receiving a local permit. Failure to comply with the local floodplain ordinance could result in enforcement action from the locality. For state projects, DCR recommends that compliance documentation be provided prior to the project being funded. For federal projects, the applicant/developer is encouraged reach out to the local floodplain administrator and comply with the community’s local floodplain ordinance.

To find flood zone information, use the Virginia Flood Risk Information System (VFRIS):  
[www.dcr.virginia.gov/vfris](http://www.dcr.virginia.gov/vfris)

To find community NFIP participation and local floodplain administrator contact information, use DCR's Local Floodplain Management Directory: [www.dcr.virginia.gov/dam-safety-and-floodplains/floodplain-directory](http://www.dcr.virginia.gov/dam-safety-and-floodplains/floodplain-directory)

The remaining DCR divisions have no comments regarding the scope of this project. Thank you for the opportunity to comment.



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MEMORANDUM

TO: Julia Wellman, DEQ/EIR Environmental Program Planner

FROM: Carlos A. Martinez, Division of Land Protection & Revitalization Review Coordinator

DATE: September 21, 2022

COPIES: Sanjay Thirunagari, Division of Land Protection & Revitalization Review Manager; file

SUBJECT: Environmental Impact Review: 22-146F Fort Norfolk Pier Rehabilitation in the City of Norfolk, Virginia.

The Division of Land Protection & Revitalization (DLPR) has completed its review of the Army Corps of Engineers' September 1, 2022 EIR for Fort Norfolk Pier Rehabilitation in the City of Norfolk, Virginia.

DLPR staff conducted a search (200 ft. radius) of the project area of solid and hazardous waste databases (including petroleum releases) to identify waste sites in close proximity to the project area. DLPR identified two (2) petroleum release site within the project area which might impact the project.

DLPR staff has reviewed the submittal and offers the following comments:

**Hazardous Waste/RCRA Facilities – none in close proximity to the project area**

**CERCLA Sites – none in close proximity to the project area**

**Formerly Used Defense Sites (FUDS) – none in close proximity to the project area.**

**Solid Waste – none in close proximity to the project area**

**Virginia Remediation Program (VRP) – none in close proximity to the project area**

**Petroleum Releases – Two (2) found in close proximity to the project area.**

- 1. PC Number 20105081, Krisp Pak Property, 139 Riverview Ave, Norfolk, Virginia, Release Date: 11/19/2009, Status: Closed.**
- 2. PC Number 19992274, True World Group, 900 Southampton Ave, Norfolk, Virginia, Release Date: 10/21/1998, Status: Closed.**

*Please note that the DEQ's Pollution Complaint (PC) cases identified should be further evaluated by the project engineer or manager to establish the exact location, nature and extent of the petroleum release and the potential to impact the proposed project. In addition, the project engineer or manager should contact the DEQ's Tidewater Regional Office at (757) 518-2000 (Tanks Program) for further information about the PC cases.*

**PROJECT SPECIFIC COMMENTS**

None

**GENERAL COMMENTS**

**Soil, Sediment, Groundwater, and Waste Management**

Any soil, sediment or groundwater that is suspected of contamination or wastes that are generated must be tested and disposed of in accordance with applicable Federal, State, and local laws and regulations. Some of the applicable state laws and regulations are: Virginia Waste Management Act, Code of Virginia Section 10.1-1400 *et seq.*; Virginia Hazardous Waste Management Regulations (VHWMR) (9VAC 20-60); Virginia Solid Waste Management Regulations (VSWMR) (9VAC 20-81); Virginia Regulations for the Transportation of Hazardous Materials (9VAC 20-110). Some of the applicable Federal laws and regulations are: the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901 *et seq.*, and the applicable regulations contained in Title 40 of the Code of Federal Regulations; and the U.S. Department of Transportation Rules for Transportation of Hazardous Materials, 49 CFR Part 107.

**Asbestos and/or Lead-based Paint**

All structures being demolished/renovated/removed should be checked for asbestos-containing materials (ACM) and lead-based paint (LBP) prior to demolition. If ACM or LBP are found, in addition to the federal waste-related regulations mentioned above, State regulations 9VAC 20-81-620 for ACM and 9VAC 20-60-261 for LBP must be followed. Questions may be directed to the DEQ's Tidewater Regional Office at (757) 518-2000.

### **Pollution Prevention – Reuse - Recycling**

Please note that DEQ encourages all construction projects and facilities to implement pollution prevention principles, including the reduction, reuse, and recycling of all solid wastes generated. All generation of hazardous wastes should be minimized and handled appropriately.

If you have any questions or need further information, please contact Carlos A. Martinez by phone at (804) 350-9962 or email [Carlos.Martinez@DEQ.Virginia.Gov](mailto:Carlos.Martinez@DEQ.Virginia.Gov).



# COMMONWEALTH of VIRGINIA

*Marine Resources Commission*  
380 Fenwick Road  
Building 96  
Fort Monroe, VA 23651

Justin D. Worrell  
Acting Commissioner

April 25, 2022

U.S. Army Corps of Engineers  
Attn: Ms. Lesley Dobbins-Noble  
c/o McLaren Technical Services  
Attn: Mr. Brian C. Moody  
530 Chestnut Ridge Road  
Woodcliff Lake, NJ 07677  
[permits@mgmclaren.com](mailto:permits@mgmclaren.com)

Re: VMRC #22-0047

Dear Ms. Dobbins-Noble:

You have requested authorization to add a floating mooring system with two (2) finger piers and three (3) slips and raise the elevation of the existing open-pile pier. Additionally, you request to install 310 linear feet of steel breakwater wave screen and a 335 linear foot timber wave fence adjacent to the pier, with a 45 linear foot channelward extension terminating at a steel monopole with donut fender at federal property (803 Front Street) adjacent to the Elizabeth River in the City of Norfolk.

Please be advised that no permit shall be required from this agency for your proposal, since acts by a federal agency *not* constituting a permanent fill over State-owned submerged lands and for the purposes of commerce, navigation, national defense, and international affairs do not fall within the jurisdiction of the Marine Resources Commission. Should you have any questions regarding this matter, please contact me at (757) 247-8027 or [ben.nettleton@mrc.virginia.gov](mailto:ben.nettleton@mrc.virginia.gov).

Sincerely,

A handwritten signature in black ink that reads 'Ben Nettleton'.

Ben Nettleton  
Environmental Engineer

BN/tsb

HM

cc: Department of Environmental Quality #6  
Norfolk Wetlands Board  
Applicant

*An Agency of the Natural and Historic Resources Secretariat*

[www.mrc.virginia.gov](http://www.mrc.virginia.gov)

Telephone (757) 247-2200 (757) 247-2292 V/TDD Information and Emergency Hotline 1-800-541-4646 V/TDD

## Reinheimer, Shannon J CIV USARMY CENAO (USA)

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**From:** David OBrien - NOAA Federal <david.l.obrien@noaa.gov>  
**Sent:** Thursday, March 3, 2022 4:44 PM  
**To:** Reinheimer, Shannon J CIV USARMY CENAO (USA)  
**Cc:** Brian D Hopper - NOAA Federal; Meagan Riley - NOAA Federal  
**Subject:** [Non-DoD Source] NOAA EFH response for Fort Norfolk (NAO) Pier Rehabilitation and Expansion Project

Hello Shannon,

I have reviewed the coordination materials you sent regarding the proposed rehabilitation and improvements to the US Army Corps of Engineers, Norfolk District pier located along Elizabeth River in the City of Norfolk, Virginia. As you know, the Elizabeth River is designated as essential fish habitat (EFH) for 8 federally managed species and is also designated an anadromous fish use area by the Virginia Department of Wildlife Resources (DWR).

The project includes the construction of three new floating piers adjacent to the existing concrete pile supported decked pier to provide berths for the Corps' three 65 ft. survey vessels. The new concrete floating piers will be anchored using twenty-two 30-inch diam. hollow steel pipe piles. A 310-ft. timber wave screen will be constructed 98-ft. channelward of the existing pier to provide protection from wave energy and severe storm events. Twenty-one 30-inch hollow steel piles will be installed as the framework for the timber wavescreen. Other project elements include an additional 18-inch and 30-inch hollow steel piles along with 12-inch timber piles. Of the project's 64 total piles to be installed via vibratory hammer, eight 30-inch hollow steel piles will be advanced with a vibratory hammer but driven the last 10-ft. to design depth to verify lateral axial loading capacity.

Installation of the hollow steel piles during construction of the floating piers and wave screens will result in acoustic impacts to NOAA trust resources and other aquatic organisms. Based on our Protected Resources Division's [Acoustic Tool](#), the area ensounded by the vibratory installation of 30-inch hollow steel piles to sound levels resulting in behavioral disturbance to fish (150 dB re 1 uPA RMS) will extend approximately 70-m from the sound source. The eight 30-inch piles to be started using a vibratory hammer and then driven the last 10-ft. to design depth with an impact hammer will ensound an area extending 90-m from the sound source. The use of a "soft-start" is proposed to help scare fish away from the work area before driving piles at full hammer energy.

We estimate the most channelward 30-inch hollow steel piles used to construct the wave screen will be located approximately 510-meters (588-yds.) from the opposite shoreline. Therefore, while vibratory and impact pile driving will adversely affect EFH resulting in acoustic impacts up to 90-m from the sound source, a sufficient zone of passage will exist for resident, transient and migratory species to pass through the work area. The proposed use of turbidity curtains during construction will help limit resuspended sediment from entering the adjacent water column. We anticipate any elevated levels of total suspended solids during construction to be minor and temporary.

Based on the available zone of fish passage and relatively minimal and temporary impacts to water quality during construction, NOAA Fisheries Service concurs with your determination that the proposed pier rehabilitation and expansion project will not substantially adversely affect essential fish habitat (EFH) and is of the opinion given the scope of proposed work, a time of year restriction to help protect the migration and spawning of anadromous fish is not warranted.

Please note this EFH determination does not address threatened and endangered species under the purview of NOAA Fisheries Service. We understand you have submitted a GARFO ESA Section 7: NLAA Program Verification Form to NOAA's Protected Resources Division (PRD). If you have any questions regarding the

Section 7 consultation process please contact Mr. Brian Hopper, NOAA Protected Resources Division ([brian.d.hopper@noaa.gov](mailto:brian.d.hopper@noaa.gov), 240-628-5420) for assistance.

Thank you for the opportunity to comment on this project. Please feel free to contact me if you have any questions.

Regards,  
Dave

David L. O'Brien  
Fisheries Biologist  
NOAA Fisheries Service  
P.O. Box 1346  
1370 Greate Rd.  
Gloucester Point, VA 23062  
804-684-7828  
[david.l.obrien@noaa.gov](mailto:david.l.obrien@noaa.gov)

NOTICE: I am teleworking until further notice. I will be checking my phone messages regularly and will return calls as quickly as possible. Please stay well.

On Thu, Mar 3, 2022 at 11:35 AM Reinheimer, Shannon J CIV USARMY CENAO (USA) <[Shannon.J.Reinheimer@usace.army.mil](mailto:Shannon.J.Reinheimer@usace.army.mil)> wrote:

Dave,

No worries. It has been a very busy year. Please see below and attached for the EFH transmittal and EFH Consultation package for the project. I apologize if I made it confusing by copying you on the Section 7 NLAA form. I appreciate your review and recommendations on the project.

Thanks!

Shannon J. Reinheimer

Environmental Scientist

Technical Support Section, Operations Branch

U.S. Army Corps of Engineers

Norfolk District, Operations Branch

757-201-7074

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**From:** Reinheimer, Shannon J CIV USARMY CENAO (USA)

**Sent:** Thursday, January 6, 2022 1:46 PM

**To:** [david.l.obrien@noaa.gov](mailto:david.l.obrien@noaa.gov)

**Cc:** Wright, Javier Ann F CIV USARMY CENAO (USA) <[JavierAnn.F.Wright@usace.army.mil](mailto:JavierAnn.F.Wright@usace.army.mil)>; Pruhs, Robert S CIV USARMY CENAO (USA) <[Robert.S.Pruhs@usace.army.mil](mailto:Robert.S.Pruhs@usace.army.mil)>

**Subject:** EFH Package for Fort Norfolk (NAO) Pier Rehabilitation and Expansion

Good Afternoon,

Please find attached the transmittal letter and Essential Fish Habitat package for the NAO Pier Rehabilitation and Improvements Project, located in Norfolk, Virginia. This project includes improvements to the existing NAO pier to allow for the safe mooring of three 65 feet vessels and to protect the mooring location from wave action and severe storm events. We conducted a Pre-Application meeting for this project on 18 October 2021. Please let me know if you have any additional questions or require further information on this submittal. Thank you for your time and attention to this project.

Shannon J. Reinheimer

Environmental Scientist

Technical Support Section, Operations Branch

U.S. Army Corps of Engineers

Norfolk District, Operations Branch

757-201-7074