



## COMMONWEALTH of VIRGINIA

### DEPARTMENT OF ENVIRONMENTAL QUALITY

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Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director

(804) 698-4020  
1-800-592-5482

November 3, 2016

Rebecca Francese  
Waterway Surveys & Engineering, Ltd.  
321 Cleveland Place  
Virginia Beach, Virginia 23462

RE: Federal Consistency Certification for the Regent Road Dredging Project, U.S.  
Army Corps of Engineers, Section 404 Clean Water Act Permit, City of Norfolk,  
DEQ-16-177F

Dear Ms. Francese:

The Commonwealth of Virginia has completed its review of the above-mentioned Federal Consistency Certification (FCC). The Department of Environmental Quality (DEQ) is responsible for coordinating Virginia's review of FCCs and responding to appropriate officials on behalf of the Commonwealth. This letter is in response to the FCC dated and received on August 10, 2016 submitted by Waterway Surveys & Engineering, Ltd. on behalf of the City of Norfolk. The following agencies and planning district commission participated in this review:

Department of Environmental Quality  
Department of Game and Inland Fisheries (DGIF)  
Department of Conservation and Recreation (DCR)  
Department of Historic Resources (DHR)  
Department of Health (VDH)  
Marine Resources Commission (VMRC)  
Hampton Roads Planning District Commission

In addition, the City of Norfolk was invited to comment on the proposal.

## **PROJECT DESCRIPTION**

The Norfolk District of the U.S. Army Corps of Engineers (ACOE) is reviewing a Joint Permit Application submitted by the City of Norfolk (applicant) for the issuance of an individual permit pursuant to Sections 401 and 404 of the Clean Water Act (CWA) (Public Law 95-217) and Title 62.1 of the Code of Virginia for impacts to jurisdictional waters of the United States and State Waters from the Regent Road Dredging Project in the City of Norfolk. The project is located between Regent Road and Granby Street and will provide recreational boat access from the properties located along the tributary to the Lafayette River. Navigational access is currently limited by shallow water during low tide. The proposed channels have been designed to minimize impacts to wetlands and accommodate existing piers and boatlifts along both sides of the waterway. Driveway channels will allow nineteen properties to connect to the main and ancillary channels. The proposed design includes a total channel length of 1,625 feet. The main channel is 20 feet wide with a proposed depth of -5 feet mean low water (MLW). The ancillary channel will be 15 feet wide and -4 MLW in depth. The dredged material will go to the Craney Island Rehandling Basin and there will be no land-based work associated with the project. The applicant has submitted a Federal Consistency Certification which finds the proposed action consistent with the enforceable policies of the Virginia Coastal Zone Management Program.

## **FEDERAL CONSISTENCY PUBLIC PARTICIPATION**

In accordance with 15 CFR §930.2, the public was invited to participate in the review of the proposal. Public notice of the proposed action was included in OEIR's Program Newsletter and published on the DEQ website from August 12, 2016 through September 9, 2016. No public comments were received in response to the notice.

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

Pursuant to the Coastal Zone Management Act of 1972 (CZMA), as amended, and the federal consistency regulations implementing the CZMA (15 CFR, Part 930, Subpart D, Section 930.50 *et seq.*), projects receiving federal permits, licenses or approvals, which can affect Virginia's coastal uses or resources, must be constructed and operated in a manner which is consistent with the Virginia Coastal Zone Management (CZM) Program. The Virginia CZM Program is comprised of a network of programs administered by several agencies. In order to be consistent with the Virginia CZM Program, all the applicable permits and approvals listed under the enforceable policies of the Virginia CZM Program must be obtained prior to commencing the project.

## **FEDERAL CONSISTENCY CONCURRENCE**

Based on our review of the consistency certification and the comments submitted by agencies administering the enforceable policies of the Virginia CZM Program, DEQ concurs that the proposal is consistent with the Virginia CZM Program provided all applicable permits and approvals are obtained as described below. However, other

state approvals which may apply to this project are not included in this consistency concurrence. Therefore, the applicant must ensure that this project is constructed and operated in accordance with all applicable federal, state and local laws and regulations.

## **FEDERAL CONSISTENCY ANALYSIS**

According to information in the FCC, the proposed activity would have no effect on the following enforceable policies: dunes management; shoreline sanitation; coastal lands management; non-point source pollution control; point source pollution control; and air pollution control. The resource agencies that are responsible for the administration of the enforceable policies of the Virginia CZM Program generally agree with the findings of the FCC. The applicant must ensure that the proposed action is consistent with the aforementioned policies. In addition, DEQ encourages the applicant to consider potential project impacts on the advisory policies (Attachment 2) of the Virginia CZM Program. The analysis which follows responds to the discussion of the enforceable policies of the Virginia CZM Program that apply to this project.

**1. Fisheries Management.** According to the FCC (page 2), the proposed dredging will not impact any existing commercial fisheries. There are no public or private leases that will be affected. A relic oyster reef is located across the mouth of the tributary and the dredging will impact approximately 2,500 square feet of the reef. Only minimal live resources will be impacted and, prior to the dredging, any live resource will be harvested and placed on the adjacent reef. A time-of-year restriction will be observed during the summer months and early fall to reduce sedimentation impacts.

**1(a) Agency Jurisdiction.** The fisheries management enforceable policy is administered by the Department of Game and Inland Fisheries (Virginia Code 29.1-100 to 29.1-570) and Virginia Marine Resources Commission (Virginia Code 28.2-200 to 28.2-713) which have management authority for the conservation and enhancement of finfish and shellfish resources in the Commonwealth.

### **1(b) Agency Findings.**

#### ***(i) Virginia Department of Game and Inland Fisheries***

DGIF did not indicate that the project would impact fisheries resources under its jurisdiction.

#### ***(ii) Virginia Marine Resources Commission***

The VMRC did not comment on the proposal with respect to the fisheries management enforceable policy.

#### ***(iii) VDH Division of Shellfish Sanitation***

VDH found that the project is located in or adjacent to condemned shellfish growing waters. The activity will not cause an increase in the size or type of the existing closure.

**1(c) Conclusion.** The project is consistent with the fisheries management enforceable policy of the Virginia CZM Program, assuming adherence to erosion and sediment controls during dredging and placement of dredged materials.

**2. Subaqueous Lands Management.** According to the FCC (page 2), the proposed project area will impact approximately 52,150 square feet of state-owned bottom lands. An application for a permit has been submitted to VMRC for this project.

**2(a) Agency Jurisdiction.** The management program for subaqueous lands establishes conditions for granting or denying permits to use state-owned bottomlands based on considerations of potential effects on marine and fisheries resources, tidal wetlands, adjacent or nearby properties, anticipated public and private benefits, and water quality standards established by the Department of Environmental Quality. The program is administered by the Virginia Marine Resources Commission (Virginia Code §28.2-1200 to §28.2-1213).

**2(b) Agency Findings.** The VMRC stated that the project involves the use of state-owned submerged bottomlands and a permit is required from the VMRC. The permit review will include a public notice period and inter-agency review. The project is under \$500,000 in cost and can be issued administratively, if no objections to the project are heard.

**2(c) Conclusion.** Provided the applicant obtains and adheres to the required VMRC permit for the dredging activity, the project is consistent with the subaqueous lands management enforceable policy.

**3. Wetlands Management.** According to the FCC (page 2), the main channel and southern portion of the west ancillary channel has been designed to avoid impacts to tidal and non-vegetated wetlands. The northern portion of the west ancillary channel will impact approximately 4,115 square feet of non-vegetated wetlands within the 2x buffer. The City of Norfolk will coordinate with regulatory agencies regarding these impacts and will propose to mitigate non-vegetated wetlands impacts by constructing an oyster reef project in the Lafayette River.

**3(a) Agency Jurisdiction.** The wetlands management enforceable policy is administered by the Virginia Marine Resources Commission (tidal wetlands) (Virginia Code 28.2-1301 through 28.2-1320) and the Department of Environmental Quality through the Virginia Water Protection Permit program (tidal and non-tidal wetlands) (Virginia Code §62.1-44.15:20 and Water Quality Certification pursuant to Section 401 of the Clean Water Act).

**3(b) Agency Findings.** The Virginia Water Protection (VWP) Permit program at the DEQ Tidewater Regional Office (TRO) notes that a JPA (JPA No. 16-0042) was received on January 11, 2016. DEQ is processing the application for a VWP Individual Permit.

**3(c) Conclusion.** The project is consistent with the wetlands management enforceable policy of the Virginia CZM Program, provided the applicant receives and complies with the conditions of the required VWP permit for the project.

**4. Air Pollution Control.** According to the FCC (page 3), there will be no permanent increase in air emissions as a result of the project.

**4(a) Agency Jurisdiction.** DEQ's Air Division implements the federal Clean Air Act to provide a legally enforceable State Implementation Plan for the attainment and maintenance of the National Ambient Air Quality Standards. This program is administered by the State Air Pollution Control Board (DEQ) (Virginia Code §10-1.1300 through §10.1-1320).

**4(b) Agency Finding.** The DEQ Air Division states that the project site is located in an ozone (O<sub>3</sub>) attainment area and emission control area for oxides of nitrogen (NO<sub>x</sub>) and volatile organic compounds (VOCs).

**4(c) Conclusion.** The project is consistent with the air pollution control enforceable policy of the Virginia CZM Program.

## **ADDITIONAL ENVIRONMENTAL CONSIDERATIONS**

In addition to the enforceable policies of the Virginia CZM Program, comments were also provided with respect to other applicable requirements and recommendations. The applicant must ensure that this project is constructed and operated in accordance with all applicable federal, state, and local laws and regulations.

### **1. Natural Heritage Resources.**

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

##### ***(i) Virginia Department of Conservation and Recreation 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 the 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).

##### ***(ii) 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.

## **1(b) Agency Findings.**

### **(i) Natural Heritage Resources**

DCR-DNH searched its Biotics Data System for natural heritage resources in close proximity to the dredge site and dredge spoils disposals site.

Dredge Site: Biotics documents the presence of natural heritage resources within two miles of the dredge site however, due to the scope of the activity, and the distance to the resources, DCR DNH does not anticipate that the project will adversely impact the resources.

Disposal Site: According to the information currently in DCR's files, this site is located within the Craney Island Conservation Site. The Craney Island Conservation Site has been given a biodiversity significance ranking of B4, which represents a site of moderate significance. The natural heritage resources of concern at this site are:

<i>Sterna antillarum</i>	Least Tern	G4/S2B/NL/NL
<i>Himantopus mexicanus</i>	Black-necked Stilt	G5/S1B/NL/NL
<i>Circus cyaneus</i>	Northern harrier	G5/S2S2B,S3N/NL/NL
<i>Acipenser oxyrinchus</i>	Atlantic Sturgeon	G3/S2/LE/LT

Note that the Atlantic sturgeon is currently classified as endangered by the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries) and threatened by the Virginia Department of Game and Inland Fisheries.

Refer to the attached memorandum dated August 29, 2016 for specific details about each species of concern.

### **(ii) State-listed Plant and Insect Species**

DCR finds that the current activity will not affect any documented state-listed plant and insect species.

### **(iii) State Natural Area Preserves**

DCR files do not indicate the presence of any State Natural Area Preserves under the agency's jurisdiction in the project vicinity.

**1(c) Recommendations.** Due to the legal status of the Atlantic sturgeon, DCR recommends coordination with the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries).

DCR recommends avoidance of the nesting sites for the Least Tern (April 15-August 1) and Black-necked Stilt (April 15-July 15).

Contact DCR DNH to secure updated information on natural heritage resources if the scope of the project changes and/or six months has passed before it is utilized. New and updated information is continually added to the Biotics Data System.

## **2. Historic and Archaeological Resources.**

**2(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. Please 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>.

**2(b) Agency Comments.** DHR requests that the U.S. Army Corps of Engineers or its agents consult directly with DHR, as necessary, pursuant to Section 106 of the National Historic Preservation Act (as amended) and its implementing regulations codified at 36 CFR Part 800 which require federal agencies to consider the effects of their undertakings on historic properties.

## **3. Public Water Supply.**

**3(a) Agency Jurisdiction.** The Virginia Department of Health (VDH) Office of Drinking Water 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.

**3(b) Agency Findings.** VDH-ODW reviewed the project and found:

- There are no public groundwater wells within a 1-mile radius of the project site.
- The surface water intakes for the following locality is within a five-mile radius of the project site. Additionally the project is within the watershed for this intake:
  - City of Norfolk (PWSID 3710100).

There may be impacts to public drinking water sources as a result of this project if the mitigation efforts recommended below are not implemented.

**3(c) Recommendation.** Care should be taken while transporting materials in and out of the project site, as to prevent impacts to surface water intakes within five miles. Best management practices should be employed on the project site including erosion and sedimentation controls as well as spill prevention controls and countermeasures.

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

#### **4. Regional Comments.**

**4(a) Agency Jurisdiction.** In accordance with CFR 930, Subpart A, § 930.6(b) of the Federal Consistency Regulations, DEQ, on behalf of the state, is responsible for securing necessary review and comment from other state agencies, the public, regional government agencies, and local government agencies, in determining the Commonwealth's concurrence or objection to a federal consistency certification.

**4(b) Regional Findings.** The staff of the Hampton Roads District Commission (HRPDC) states that the proposal appears to be consistent with local and regional plans and policies.



## REGULATORY AND COORDINATION NEEDS

**1. Natural Heritage Resources.** Coordinate with DCR (804-786-7951) with questions regarding their recommendations.

Contact DCR-DNH, Rene Hypes at (804) 371-2708, to secure updated information on natural heritage resources if the scope of the project changes and/or six months passes before the project is implemented, since new and updated information is continually added to the Biotics Data System.

Due to the legal status of the Atlantic sturgeon, coordinate with NOAA Fisheries (Christine Vaccaro, Christine.vaccaro@noaa.gov).

**2. Public Water Supply Protection.** Potential impacts to public water distribution systems must be verified by the local utility. Contact the VDH's Southeast Virginia Office of Water Programs at 757-683-2000 regarding protection of the public water supply.

**3. Historic Resources.** Coordinate directly with the DHR (Greg LaBudde, 804-482-6103) pursuant to Section 106 of the National Historic Preservation Act to consider the effect of the project on historic resources.

**4. VMRC Permit.** Continue to coordinate with VRMC (Rachael Maulorico, 757-247-8027) to ensure that the required subaqueous lands permit is obtained prior to project commencement.

**5. Wetlands Management.** Continue to coordinate with the DEQ TRO VWP Permit program (757-218-2000) regarding JPA No.16-0042 to obtain the individual permit that is required for this project.

Thank you for the opportunity to comment on the FCC submitted for the Regent Road Dredging Project in the City of Norfolk. Detailed comments of reviewing agencies are attached for your review. Please contact me at (804) 698-4204 or Janine Howard at (804) 698-4299 for clarification of these comments.

Sincerely,



Bettina Sullivan, Program Manager  
Environmental Impact Review

Ec: Robbie Rhur, DCR  
Amy Ewing, DGIF  
Tony Watkinson, MRC  
Roger Kirchen, DHR

Regent Road Dredging Project  
DEQ 16-177F

Ben McFarlane, HRPDC  
Arlene Warren, VDH  
Lee Rosenberg, City of Norfolk  
Rebecca Francese, Waterway Surveys & Engineering, Ltd.

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
DIVISION OF AIR PROGRAM COORDINATION**

**ENVIRONMENTAL REVIEW COMMENTS APPLICABLE TO AIR QUALITY**

TO: Janine L. Howard

DEQ - OEIA PROJECT NUMBER: DEQ #16-177F

PROJECT TYPE: ☐ STATE EA / EIR ☒ **FEDERAL EA / EIS** ☐ SCC

**X CONSISTENCY CERTIFICATION**

PROJECT TITLE: Regent Road Dredging Project

PROJECT SPONSOR: Army Corps of Engineers

PROJECT LOCATION: ☒ **OZONE ATTAINMENT  
AND EMISSION CONTROL AREA FOR NOX & VOC**

REGULATORY REQUIREMENTS MAY BE APPLICABLE TO: ☒ **DREDGING  
OPERATION**  
☐

**STATE AIR POLLUTION CONTROL BOARD REGULATIONS THAT MAY APPLY:**

1. ☐ 9 VAC 5-40-5200 C & 9 VAC 5-40-5220 E – STAGE I
2. ☐ 9 VAC 5-45-760 et seq. – Asphalt Paving operations
3. ☒ **9 VAC 5-130 et seq. – Open Burning**
4. ☒ **9 VAC 5-50-60 et seq. Fugitive Dust Emissions**
5. ☐ 9 VAC 5-50-130 et seq. - Odorous Emissions; Applicable to \_\_\_\_\_
6. ☐ 9 VAC 5-60-300 et seq. – Standards of Performance for Toxic Pollutants
7. ☐ 9 VAC 5-50-400 Subpart \_\_\_\_\_, Standards of Performance for New Stationary Sources, designates standards of performance for the \_\_\_\_\_
8. ☐ 9 VAC 5-80-1100 et seq. of the regulations – Permits for Stationary Sources
9. ☐ 9 VAC 5-80-1605 et seq. Of the regulations – Major or Modified Sources located in PSD areas. This rule may be applicable to the \_\_\_\_\_
10. ☐ 9 VAC 5-80-2000 et seq. of the regulations – New and modified sources located in non-attainment areas
11. ☐ 9 VAC 5-80-800 et seq. Of the regulations – State Operating Permits. This rule may be applicable to \_\_\_\_\_

**COMMENTS SPECIFIC TO THE PROJECT:**

**All precautions are necessary to restrict the emissions of volatile organic compounds (VOC) and oxides of nitrogen (NO<sub>x</sub>).**



(Kotur S. Narasimhan)  
Office of Air Data Analysis

DATE: August 18, 2016

Molly Joseph Ward  
Secretary of Natural Resources

Clyde E. Cristman  
Director



Rochelle Altholz  
Deputy Director of  
Administration and Finance

David C. Dowling  
Deputy Director of  
Soil and Water Conservation  
and Dam Safety

Thomas L. Smith  
Deputy Director of Operations

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

**MEMORANDUM**

DATE: August 29, 2016  
TO: Janine Howard, DEQ  
FROM: Roberta Rhur, Environmental Impact Review Coordinator  
SUBJECT: DEQ 16-177F, Regent Road Dredging Project

**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.

**Dredge Site:**

Biotics historically documents the presence of natural heritage resources within two miles of the project area. However, due to the scope of the activity and the distance to the resources, we do not anticipate that this project will adversely impact these natural heritage resources.

**Disposal Site:**

According to the information currently in our files, this site is located within the Craney Island Conservation Site. Conservation sites are tools for representing key areas of the landscape that warrant further review for possible conservation action because of the natural heritage resources and habitat they support. Conservation sites are polygons built around one or more rare plant, animal, or natural community designed to include the element and, where possible, its associated habitat, and buffer or other adjacent land thought necessary for the element's conservation. Conservation sites are given a biodiversity significance ranking based on the rarity, quality, and number of element occurrences they contain; on a scale of 1-5, 1 being most significant. Craney Island Conservation Site has been given a biodiversity significance ranking of B4, which represents a site of moderate significance. The natural heritage resources of concern at this site are:

<i>Sterna antillarum</i>	Least Tern	G4/S2B/NL/NL
<i>Himantopus mexicanus</i>	Black-necked Stilt	G5/S1B/NL/NL
<i>Circus cyaneus</i>	Northern harrier	G5/S2S2B,S3N/NL/NL
<i>Acipenser oxyrinchus</i>	Atlantic sturgeon	G3/S2/LE/LT

The Least tern breeds worldwide except in Antarctica and portions of the West Indies and East Indies (Beck, 1991). In Virginia, it breeds on beaches along both the Chesapeake Bay and the Atlantic Ocean (Beck, 1991). It nests on broad, flat beaches with minimal vegetation and forages in saltwater near the shore. Threats to this species include loss of nesting habitat due to development and disturbance of breeding colonies by human activities and high numbers of predators (Beck, 1991).

Black-necked Stilts breed along the Atlantic coast from the mid-Atlantic State south, in pockets of the western United States through Mexico and Central America and into South America (NatureServe, 2009). In Virginia, there are records along the Eastern Shore and in the Hampton Roads area. They primarily occur near shallow salt or fresh water bodies with soft muddy bottoms, including grassy marshes, wet savannas, mudflats, shallow ponds, flooded fields, and the borders of salt ponds. They nest along the shallow water of ponds, lakes, swamps, or lagoons and may nest on the ground or in the shallow water on a plant tussock. Black-necked Stilts feed on insects, crustaceans, and small fish, as well as the seeds of aquatic plants. Threats to the Black-necked stilt include increase pressure from domesticated predators, consumption of contaminants from foraging in evaporation pools where pollutants may settle, and reduction of wetland habitats (Robinson et al., 1999).

The Northern harrier (*Circus cyaneus*; G5/S1S2B,S3N/NL/NL) is a slender bird of prey that breeds throughout the northern parts of the northern hemisphere in Canada, the northernmost USA, and in northern Eurasia (Bazuin, 1991). Marsh Hawk is a disused common name for the American form. Northern harriers hunt small mammals and birds, surprising them as they drift low over fields and marshes they inhabit. While Northern harriers are common in Virginia during the winter, they rarely breed this far south, with only a few nesting locations known each summer in the coastal plain. There are scattered, non-breeding summer records from across the state.

In the early 20<sup>th</sup> century, hunting posed a great threat to the Northern harrier (Bazuin, 1991). Later, it suffered from the effects of DDT, a widely used pesticide, which resulted in the thinning of its egg shells and thus failed reproduction (NatureServe, 2009). Current threats to the Northern harrier include human disturbances to nesting birds and destruction of breeding habitats, including the alterations of wetlands and the conversion of grasslands from native grasses to monotypic farmland (Bazuin, 1991; NatureServe, 2009).

Atlantic sturgeon is a large fish that reaches a maximum length of about 4.3 meters and may live for several decades. The adults migrate between fresh water spawning areas and salt water non-spawning areas. They feed primarily on benthic invertebrates and small fishes as available.

Stocks on the Atlantic slope have been severely reduced by overfishing (mainly late 1800s and early 1900s), pollution, sedimentation, and blockage of access to spawning areas by dams (Gilbert 1989, Burkhead and Jenkins 1991, Marine and Coastal Species Information System 1996). In Chesapeake Bay and elsewhere in the range, hypoxic events have increased and may degrade nursery habitat for Atlantic sturgeon (Secor and Gunderson 1997). Habitat loss due to dam construction and water pollution are thought to be major factors impeding full recovery of populations (Smith 1985, cited by Johnson et al. 1997; Gilbert 1989). A late maturation age and use of estuaries, coastal bays, and upstream areas of rivers for spawning and juvenile development make stocks vulnerable to habitat alterations in many areas (NatureServe 2012). Please note that this species is currently classified as endangered by the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries) and threatened by the Virginia Department of Game and Inland Fisheries (VDGIF).

DCR recommends avoidance of the nesting sites for the Least Tern (April 15-August 1) and Black-necked Stilt (April 15-July 15). Due to the legal status of the Atlantic sturgeon, DCR recommends coordination with NOAA Fisheries and Virginia's regulatory authority for the management and protection of this species, the VDGIF, to ensure compliance with the Virginia Endangered Species Act (VA ST §§ 29.1-563 – 570).

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 Game and Inland Fisheries (VDGIF) 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 Ernie Aschenbach at 804-367-2733 or [Ernie.Aschenbach@dgif.virginia.gov](mailto:Ernie.Aschenbach@dgif.virginia.gov). This project is located within 2 miles of documented occurrences of state listed animals. Therefore, DCR recommends coordination with VDGIF, Virginia's regulatory authority for the management and protection of these species to ensure compliance with the Virginia Endangered Species Act (VA ST §§ 29.1-563 – 570).

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

Cc: Christine Vaccaro, NOAA Fisheries-Protected Species Division  
Amy Ewing, VDGIF

## Howard, Janine (DEQ)

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**From:** Ewing, Amy (DGIF)  
**Sent:** Wednesday, September 21, 2016 4:28 PM  
**To:** Howard, Janine (DEQ)  
**Subject:** ESSLog# 37241\_16-177F\_RegentRdDredge\_DGIF\_AME20160920

Janine,

Assuming adherence to erosion and sediment controls, we find this project consistent with the Fisheries Management Section of the CZMA.

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 the protection of these resources.

Amy

**Amy M. Ewing**

*Environmental Services Biologist/FWIS Biologist Supervisor*

*Chair, Team WILD (Work, Innovate, Lead and Develop)*

*VA Department of Game and Inland Fisheries*

*7870 Villa Park Dr., Suite 400, PO Box 90778, Henrico, VA 23228*

*804-367-2211 ☎ [www.dgif.virginia.gov](http://www.dgif.virginia.gov)*

🌐 Please consider the environment before printing this email.

## Howard, Janine (DEQ)

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**From:** LaBudde, Gregory (DHR)  
**Sent:** Friday, September 09, 2016 4:25 PM  
**To:** Howard, Janine (DEQ)  
**Subject:** FW: NEW PROJECT ACOE Regent Rd 16-177F (DHR File No. 2016-0531)

Dear Ms. Howard:

The Department of Historic Resources (DHR) has received the referenced OEIR review request. We request that the U.S. Army Corps of Engineers or its agents consult directly with DHR, as necessary, pursuant to Section 106 of the National Historic Preservation Act (as amended) and its implementing regulations codified at 36 CFR Part 800 which require federal agencies to consider the effects of their undertakings on historic properties.

Thank you for your consideration of historic resources. Please contact me if you have any questions.

Sincerely,

Greg LaBudde, Archaeologist  
Review and Compliance Division  
Department of Historic Resources  
2801 Kensington Avenue  
Richmond, VA 23221  
phone: 804-482-6103  
fax: 804-367-2391  
[gregory.labudde@dhr.virginia.gov](mailto:gregory.labudde@dhr.virginia.gov)

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**From:** Fulcher, Valerie (DEQ)  
**Sent:** Friday, August 12, 2016 9:35 AM  
**To:** dgif-ESS Projects (DGIF); Rhur, Robbie (DCR); odwreview (VDH); Narasimhan, Kotur (DEQ); Robinson, Cindy (DEQ); Kirchen, Roger (DHR); Watkinson, Tony (MRC); Ben McFarlane; [jmcbride@hrpdcva.gov](mailto:jmcbride@hrpdcva.gov); [lee.perkins@norfolk.gov](mailto:lee.perkins@norfolk.gov)  
**Cc:** Howard, Janine (DEQ)  
**Subject:** NEW PROJECT ACOE Regent Rd 16-177F

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

**Document Type:** Federal Consistency Certification  
**Project Sponsor:** Army Corps of Engineers  
**Project Title:** Regent Road Dredging Project  
**Location:** City of Norfolk  
**Project Number:** DEQ #16-177F

The document is available at [www.deq.virginia.gov/filesshare/oeir](http://www.deq.virginia.gov/filesshare/oeir) in the ACOE folder.

The due date for comments is **SEPTEMBER 9, 2016**. You can send your comments either directly to Janine by email ([Janine.Howard@deq.virginia.gov](mailto:Janine.Howard@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, 629 E. Main St., 6th Floor, Richmond, VA 23219.



## Howard, Janine (DEQ)

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**From:** Maulorico, Rachael (MRC)  
**Sent:** Friday, August 12, 2016 10:15 AM  
**To:** Howard, Janine (DEQ)  
**Subject:** Regent Road Dredging Project DEQ- 16-177F

Hi Janine,

The above referenced project involves the use of state-owned submerged bottomlands and requires a subaqueous permit from the Virginia Marine Resources Commission. The permit review will include a public notice period and inter-agency review. The project is under \$500,000 in cost and can be issued administratively if no objections to the project are heard.

Please let me know if you have any further questions.

*Rachael L. Maulorico  
Habitat Engineer  
Virginia Marine Resources Commission  
2600 Washington Avenue, 3rd Floor  
Newport News, VA 23607  
Phone: 757-247-8027  
Cell: 757-504-7276*



DEPARTMENT OF ENVIRONMENTAL QUALITY  
TIDEWATER REGIONAL OFFICE  
ENVIRONMENTAL IMPACT REVIEW COMMENTS

September 13, 2016

**PROJECT NUMBER:** 16-177F

**PROJECT TITLE:** Regent Road Dredging Project

As Requested, TRO staff has reviewed the supplied information and has the following comments:

**Petroleum Storage Tank Cleanups:**

No comments.

**Petroleum Storage Tank Compliance/Inspections:**

No comments.

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

A Joint Permit Application (JPA No.16-0042) for the project was received by DEQ on January 11, 2016. DEQ is processing the application for a VWP Individual Permit. Provided VWP authorization is received and complied with, this project will be consistent with our program.

**Air Permit Program :**

No air permitting issues identified.

**Water Permit Program :**

No comments.

**Waste Permit Program :**

All construction, demolition and debris waste, including excess soil and dredge spoil, must be characterized in accordance with the Virginia Hazardous Waste Management Regulations prior to management at an appropriate facility. For additional information, contact Sean Priest, DEQ-TRO at (757) 518-2141 or [jonathan.priest@deq.virginia.gov](mailto:jonathan.priest@deq.virginia.gov).

**Storm Water Program:**

Non-point source pollution – Report does not address how they will handle dredge material. Information should be provided for the placement or transport of dredge material. An erosion and sediment control plan may be required for the placement or transport of material.

The staff from the Tidewater Regional Office thanks you for the opportunity to provide comments.



DEPARTMENT OF ENVIRONMENTAL QUALITY  
TIDEWATER REGIONAL OFFICE  
ENVIRONMENTAL IMPACT REVIEW COMMENTS

September 13, 2016

**PROJECT NUMBER:** 16-177F

**PROJECT TITLE:** Regent Road Dredging Project

Sincerely,

---

Cindy Robinson  
Environmental Specialist II  
5636 Southern Blvd.  
VA Beach, VA 23462  
(757) 518-2167  
[Cindy.Robinson@deq.virginia.gov](mailto:Cindy.Robinson@deq.virginia.gov)

## Howard, Janine (DEQ)

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**From:** Hill, Noah (DEQ)  
**Sent:** Friday, October 14, 2016 8:45 AM  
**To:** Howard, Janine (DEQ)  
**Subject:** RE: EIR 16-177F\_Regent Road Dredging Project

Hi Janine,

No, an erosion and sediment control plan would not be required for placement of dredge material at Craney.

Thanks

Noah M. Hill  
Stormwater Compliance  
DEQ Tidewater Regional Office  
(757) 373-9459

---

**From:** Howard, Janine (DEQ)  
**Sent:** Friday, October 14, 2016 8:41 AM  
**To:** Hill, Noah (DEQ)  
**Subject:** RE: EIR 16-177F\_Regent Road Dredging Project

Hi Noah,

Is the City of Norfolk required to develop an erosion and sediment control plan to place dredge material in Craney Island? I assume the Corps may already have a plan in place for the operation of Craney Island so perhaps the activity will be covered by the existing plan.

Thanks for your help!

*Janine L. Howard*

Environmental Impact Review Coordinator

Office of Environmental Impact Review  
Division of Environmental Enhancement  
Virginia Department of Environmental Quality  
629 E. Main Street  
Richmond, VA 23219

t: (804) 698-4299  
f: (804) 698-4032

For program updates and public notices please subscribe to the [OEIR News Feed](#)

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**From:** Robinson, Cindy (DEQ)  
**Sent:** Friday, October 14, 2016 8:23 AM  
**To:** Howard, Janine (DEQ)  
**Subject:** FW: EIR 16-177F\_Regent Road Dredging Project

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**From:** Hill, Noah (DEQ)  
**Sent:** Wednesday, October 12, 2016 4:31 PM  
**To:** Robinson, Cindy (DEQ)  
**Subject:** RE: EIR 16-177F\_Regent Road Dredging Project

That addresses my comment. If it's being barged to Craney then I have no additional comments.

Noah M. Hill  
Stormwater Compliance  
DEQ Tidewater Regional Office  
(757) 373-9459

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**From:** Robinson, Cindy (DEQ)  
**Sent:** Wednesday, October 12, 2016 3:23 PM  
**To:** Hill, Noah (DEQ)  
**Subject:** FW: EIR 16-177F\_Regent Road Dredging Project

Hi Noah,  
Please see Janine's email below and either let me or her know if this new information affects your comments.

Thanks,  
Cindy

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**From:** Howard, Janine (DEQ)  
**Sent:** Wednesday, October 12, 2016 3:19 PM  
**To:** Robinson, Cindy (DEQ)  
**Subject:** FW: EIR 16-177F\_Regent Road Dredging Project

Hi Cindy,  
  
I'd like to provide some follow-up information for the Stormwater Program. The dredged material will be taken to the Craney Island Rehandling Basin and there will not be any land-based work associated with the Regent Road Dredging Project. Does that information affect the comments that were provided?

Thanks for your help,  
  
Janine

*Janine L. Howard*  
Environmental Impact Review Coordinator

Office of Environmental Impact Review  
Division of Environmental Enhancement  
Virginia Department of Environmental Quality  
629 E. Main Street  
Richmond, VA 23219

t: (804) 698-4299  
f: (804) 698-4032

## Howard, Janine (DEQ)

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**From:** Warren, Arlene (VDH)  
**Sent:** Thursday, September 08, 2016 2:59 PM  
**To:** Howard, Janine (DEQ)  
**Subject:** RE: NEW PROJECT ACOE Regent Rd 16-177F REVISED PROJECT TITLE

**Project Name: Regent Road Dredging Project**

Project #: 16-177 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:

PWSID	SYSNAME	FACNAME
3710100	NORFOLK, CITY OF	IN-TOWN LAKES

The project is within the watershed of the following public surface water sources (intakes where the project falls within 5 miles into their watershed are formatted in **bold**):

PWSID	SYSNAME	FACNAME
3710100	NORFOLK, CITY OF	IN-TOWN LAKES

- *Comments from OEHS Division of Shellfish Sanitation, Mr. Eric Aschenbach were as following;  
"I already supplied comments directly to VMRC under JPA permit #16-0042. I do not have any additional comments. Thanks, Eric"*

- *No comments were received from Environmental Epidemiology, Mr. Dwight Flammia.*

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

Care should be taken while transporting materials in and out of the project site, as to prevent impacts to surface water intakes within 5 miles.

There may be impacts to public drinking water sources due to this project if the mitigation efforts outlined above are not implemented.



# COMMONWEALTH of VIRGINIA

## Department of Health DIVISION OF SHELLFISH SANITATION

109 Governor Street, Room 614-B  
Richmond, VA 23219

Ph: 804-864-7487  
Fax: 804-864-7481

### MEMORANDUM

**DATE:** 7/15/2016  
**TO:** Rachael Maulorico  
Virginia Marine Resources Commission  
**FROM:** B. Keith Skiles, MPH, Director  
Division of Shellfish Sanitation

**SUBJECT:** Regent Road Dredging Project

City / County: Norfolk

Waterbody: Lafayette River

Type: ☐ VPDES ☐ VMRC ☐ VPA ☐ VWP ☒ JPA ☐ Other:

Application / Permit Number: 16-0042

- ☐ The project will not affect shellfish growing waters.
- ☐ The project is located in or adjacent to approved shellfish growing waters, however, the activity as described will not require a change in classification.
- ☒ The project is located in or adjacent to condemned shellfish growing waters and the activity, as described, will not cause an increase in the size or type of the existing closure.
- ☐ The project will affect condemned shellfish waters and will not cause an increase in the size of the total condemnation. However, a prohibited area (an area from which shellfish relay to approved waters for self-purification is not allowed) will be required within a portion of the currently condemned area. See comments.
- ☐ A buffer zone (including a prohibited area) has been previously established in the vicinity of this discharge, however, the closure will have to be revised. Map attached.
- ☐ This project will affect approved shellfish waters. If this discharge is approved, a buffer zone (including a prohibited area) will be established in the vicinity of the discharge. Map attached.
- ☐ Other.

ADDITIONAL  
COMMENTS:

Area #: 65

eta

## Howard, Janine (DEQ)

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**From:** Ben McFarlane <bmcfarlane@hrpdcva.gov>  
**Sent:** Thursday, September 22, 2016 4:00 PM  
**To:** Howard, Janine (DEQ)  
**Cc:** Sharon Lawrence; McCarthy, Seamus; lee.perkins@norfolk.gov  
**Subject:** DEQ #16-177F - Regent Road Dredging Project

Ms. Howard,

The HRPDC staff has reviewed the federal consistency certification for this project (DEQ #16-177F - Regent Road Dredging Project). The proposal appears to be consistent with local and regional plans and policies.

We appreciate the opportunity to review this project. If you have any questions, please let me know.

Ben

**Benjamin J. McFarlane, AICP**  
**Senior Regional Planner**  
Hampton Roads Planning District Commission  
723 Woodlake Drive  
Chesapeake, VA 23320  
Phone: 757-420-8300 | Fax: 757-420-9300



*All email correspondence to and from this address is subject to the Virginia Freedom of Information Act and to the Virginia Public Records Act, which may result in monitoring and disclosure to third parties, including law enforcement.*





## COMMONWEALTH of VIRGINIA

### DEPARTMENT OF ENVIRONMENTAL QUALITY

*Street address:* 629 East Main Street, Richmond, Virginia 23219

*Mailing address:* P.O. Box 1105, Richmond, Virginia 23218

Fax: 804-698-4019 - TDD (804) 698-4021

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Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director

(804) 698-4020  
1-800-592-5482

November 4, 2016

Ms. Rebecca Francese  
Waterway Surveys and Engineering, Ltd.  
321 Cleveland Place  
Virginia Beach, Virginia 23462

RE: Federal Consistency Certification: West Belvedere Road Dredging Project, City of Norfolk, U.S. Army Corps of Engineers Individual Permit (DEQ 16-179F)

Dear Ms. Francese:

The Commonwealth of Virginia has completed its review of the federal consistency certification (FCC) for the above-referenced project. The Department of Environmental Quality (DEQ) is responsible for coordinating Virginia's review of federal consistency documents and responding to appropriate officials on behalf of the Commonwealth. This letter is in response to the FCC submission received on August 10, 2016. The FCC was submitted by Waterway Surveys and Engineering, Ltd. on behalf of the City of Norfolk as a requirement to obtain an U.S. Army Corps of Engineers (Corps) Individual Permit. The following agencies and planning district commission participated in this review:

Department of Environmental Quality  
Department of Game and Inland Fisheries  
Department of Conservation and Recreation  
Department of Health  
Department of Historic Resources  
Marine Resource Commission  
Hampton Road Planning District Commission

The City of Norfolk also was invited to comment.

## **PROJECT DESCRIPTION**

The City of Norfolk is proposing a dredging project that qualifies for a U.S. Army Corps of Engineers individual permit. Therefore, the city must submit a FCC pursuant for the proposed project, which is referred to as the West Belvedere Dredging Project and is located west of West Belvedere Road in the City of Norfolk. The purpose of this project is to dredge a tributary between Ridgeley Point and West Belvedere Road, thereby extending the main channel that connects navigable water in the Lafayette River to the tributary. The project would provide recreational boat access from the properties located along the tributary to the Lafayette River. Navigational access is currently limited by shallow water at low tide. The proposed channels were designed to minimize impacts to wetlands and accommodate the existing piers and boat lifts along the east side of the waterway. Twenty one properties could potentially connect to the proposed channel via "driveway" channels. The average driveway length from existing piers to the toe of the proposed channel is about 20 feet. All riparian property owners could potentially connect to the West Belvedere channel; however, about half of the property owners would impact non-vegetated, tidal wetlands. According to the FCC, the project will be consistent with the enforceable policies of the Virginia Coastal Zone Management (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 August 25, 2016 to September 23, 2016. No public comments were received in response to the notice.

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

Pursuant to the Coastal Zone Management Act (CZMA) of 1972, as amended (16 USCA, CZMA § 307, § 1456(c)(3)(A)) and its implementing federal consistency regulations (15 CFR Part 930, subpart D), any applicant for a required listed federal license or permit to conduct an activity, in or outside of the coastal zone, affecting any land or water use or natural resource of the coastal zone of the Commonwealth shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the enforceable policies of the Virginia CZM Program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to DEQ a copy of the certification with all necessary information and data. The Commonwealth has six months after receipt of a complete FCC to concur or object to the applicant's finding of project consistency with the Virginia CZM Program. The Virginia CZM Program is comprised of a network of programs administered by several agencies. In order to be consistent with the Virginia

CZM Program, all the applicable permits and approvals listed under the enforceable policies of the Virginia CZM Program must be obtained prior to commencing the project.

## **FEDERAL CONSISTENCY CONCURRENCE**

Based on our review of the FCC and the comments submitted by agencies administering the applicable enforceable policies of the Virginia CZM Program, DEQ concurs that the proposal is consistent with the Virginia CZM Program provided all applicable permits and approvals are obtained as described below. If, prior to construction, the project should change significantly and any of the enforceable policies of the Virginia CZM Program would be affected, pursuant to 15 CFR §930.66, the applicant must submit supplemental information to DEQ for review and approval. Other state approvals which may apply to this project are not included in this FCC. Therefore, the applicant must ensure that this project is constructed and operated in accordance with all applicable federal, state, and local laws and regulations. In addition, in accordance with 15 CFR Part 930, subpart D, § 930.58(a) (3), we encourage the applicant to consider the Advisory Policies of the Virginia CZM Program as well (see Attachment 2).

## **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 the enforceable policies.

**1. Fisheries Management.** The FCC (page 2) states that the project will not affect existing commercial fisheries. The project was modified to reduce impacts to a relic oyster reef.

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

**1(a)(i) Virginia Marine Resources Commission (VMRC) and Department of Game and Inland Fisheries (DGIF).** The fisheries management enforceable policy is administered by the VMRC (Virginia Code Section 28.2-200 to 28.2-713) and the DGIF (Virginia Code Section 29.1-100 to 29.1-570).

**1(a)(ii) Department of Health.** The VDH Division of Shellfish Sanitation (DSS) is responsible for protecting the health of the consumers of molluscan shellfish and crustacea by ensuring that shellfish growing waters are properly classified for harvesting, and that molluscan shellfish and crustacea processing facilities meet sanitation standards. The mission of this Division is to minimize the risk of disease from molluscan shellfish and crustacea products at the wholesale level by classifying shellfish waters for safe commercial and recreational harvest; by implementing a

statewide regulatory inspection program for commercial processors and shippers; and by providing technical guidance and assistance to the shellfish and crustacea industries regarding technical and public health issues.

**1(b) Agency Comments.** Assuming adherence to erosion and sediment controls during dredging and placement of dredged materials, preferably in uplands, DGIF does not anticipate this project to result in significant adverse impacts upon resources under its jurisdiction that have been documented from the project area.

VDH DSS states that the project is located in or adjacent to condemned shellfish growing waters and the activity, as described, will not cause an increase in the size or type of the existing closure. VMRC did not indicate that the project would affect fisheries management resources under its jurisdiction.

**1(c) Conclusion.** Assuming adherence to erosion and sediment controls during dredging and placement of dredged materials, the project would be consistent with the fisheries management enforceable policy.

**2. Wetlands Management.** The FCC (page 2) states that the project may affect 0.19 acres of non-vegetated wetlands.

**2(a) Agency Jurisdiction.**

**2(a)(i) DEQ.** The State Water Control Board promulgates Virginia's water regulations, covering a variety of permits to include Virginia Pollutant Discharge Elimination System Permit, Virginia Pollution Abatement Permit, Surface and Groundwater Withdrawal Permit, and the Virginia Water Protection Permit (VWPP). The VWPP is a state permit which governs wetlands, surface water, and surface water withdrawals/impoundments. It also serves as § 401 certification of the federal Clean Water Act § 404 permits for dredge and fill activities in waters of the U.S. The VWPP Program is under the Office of Wetlands and Stream Protection (OWSP).

**2(a)(ii) VMRC.** Tidal wetlands are regulated by VMRC under the authority of Virginia Code §28.2-1301 through §28.2-1320.

**2(b) Agency Comments.** The DEQ Tidewater Regional Office (TRO) received a Joint Permit Application (JPA) #16-0321 for the dredging of a recreational boating channel along West Belvedere Road in March 2016. DEQ may issue an Individual Permit or a Waiver for this project. VMRC did not indicate that the project would affect wetlands under its jurisdiction.



**2(e) Conclusion.** Provided the applicant obtains and the project complies with any permit requirements, the project would be consistent with the wetlands management enforceable policy.

**3. Subaqueous Lands.** The FCC (page 2) states that dredging will affect approximately 52,745 square feet of state-owned bottomland.

**3(a) Agency Jurisdiction.** VMRC, pursuant to Section 28.2-1200 et seq. of the Code of Virginia, has jurisdiction over any encroachments in, on, or over any state-owned rivers, streams, or creeks in the Commonwealth.

**3(b) Agency Findings.** VMRC states that project involves the use of state-owned submerged lands and will require a VMRC permit and a public interest review. The VMRC is currently in the environmental review process and is working with the applicant for acceptable mitigation measures.

**3(c) Requirement.** The applicant must obtain a VMRC subaqueous lands permit.

**3(d) Conclusion.** Provided the project obtains and complies with the requirements of the VMRC subaqueous lands permit, it would be consistent with the subaqueous lands management enforceable policy.

**4. Air Pollution Control.** The FCC (page 3) states that implementing the proposed project will not directly increase air emissions.

**4(a) Agency Jurisdiction.** The DEQ Air Division, on behalf of the State Air Pollution Control Board, is responsible for developing regulations that implement Virginia's Air Pollution Control Law (Virginia Code §10.1-1300 et seq.). DEQ is charged with carrying out mandates of the state law and related regulations as well as Virginia's federal obligations under the Clean Air Act as amended in 1990. The objective is to protect and enhance public health and quality of life through control and mitigation of air pollution. The division ensures the safety and quality of air in Virginia by monitoring and analyzing air quality data, regulating sources of air pollution, and working with local, state and federal agencies to plan and implement strategies to protect Virginia's air quality. The appropriate DEQ regional office is directly responsible for the issuance of necessary permits to construct and operate all stationary sources in the region as well as monitoring emissions from these sources for compliance. As a part of this mandate, environmental impact reviews (EIRs) of projects to be undertaken in the state are also reviewed. In the case of certain projects, additional evaluation and demonstration must be made under the general conformity provisions of state and federal law.

The Air Division regulates emissions of air pollutants from industries and facilities and implements programs designed to ensure that Virginia meets national air quality standards. The most common regulations associated with major State projects are:

- Open burning: 9VAC5-130 et seq.
- Fugitive dust control: 9VAC5-50-60 et seq.
- Permits for fuel-burning equipment: 9VAC5-80-1100 et seq.

**4(b) Ozone Attainment Area.** 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.

**4(c) Recommendation.** Take all precautions to restrict the emissions of VOCs and NO<sub>x</sub> during construction.

**4(d) Conclusion.** Provided the project complies with applicable requirements, it would be consistent with the air pollution control enforceable policy of the Virginia CZM Program.

**5. Coastal Lands Management.** The FCC (page 3) states that the project is water dependent.

**5(a) Agency Jurisdiction.** The DEQ Office of Local Government Programs (OLGP) administers the Chesapeake Bay Preservation Act and Chesapeake Bay Preservation Area Designation and Management Regulations (Regulations).

**5(b) Agency Findings.** The DEQ OLGP states that Norfolk's local Chesapeake Bay Preservation Act program includes designated Chesapeake Bay Preservation Areas in portions of the city. All work will occur over the subaqueous bottomlands of the unnamed canal just off the Lafayette River. As this activity occurs solely over subaqueous lands, there are no Bay Act program requirements.

**5(d) Conclusion.** As proposed, the project would be consistent with the coastal lands management enforceable policy.

## **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. Solid and Hazardous Waste Management.**

**1(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 and the Comprehensive Environmental Response Compensation Liability Act, 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 governing 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.

**1(b) Database Search.** The DEQ Division of Land Protection and Revitalization (DLPR) states that it conducted a cursory review of its files, including a Geographic Information System search. The following CERCLA site is within the same zip code as the proposed project: VAD988204541, US Maritime Administration – James River Reserve Fleet, End of Harrison Road, Newport News, VA 23505, Not on NPL. See the attached letter from DEQ DLPR for additional information the identified waste site.

**1(c) Requirements.** All construction, demolition and debris waste, including excess soil and dredge spoil, must be characterized in accordance with the Virginia Hazardous Waste Management Regulations prior to management at an appropriate facility.

**1(e) Agency Recommendations.** DEQ encourages all projects and facilities 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.

## **2. Natural Heritage Resources.**

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

**2(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 the 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).

**2(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.

**2(b) Agency Findings –Natural Heritage Resources.** DCR DNH states that the Biotics Data System historically documents the presence of natural heritage resources within two miles of the project area. However, due to the scope of the activity and the distance to the resources, DCR does not anticipate that this project will adversely impact these natural heritage resources.

**2(c) Threatened and Endangered Plant and Insect Species.** DCR states that the current activity will not affect any documented state-listed plant and insect species.

**2(d) Natural Area Preserves.** DCR states that there are no State Natural Area Preserves under DCR's jurisdiction in the project vicinity.

**2(e) Agency Recommendations.** Contact DCR DNH and re-submit project information and a 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.



### **3. Public Water Supply**

**3(a) Agency Jurisdiction.** The Virginia Department of Health (VDH) Office of Drinking Water 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.

**3(b) Agency Findings.** VDH ODW states that there may be impacts to public drinking water sources due to this project if the mitigation efforts outlined below are not implemented. The City of Norfolk's In-Town Lakes surface water intake is located within a 5-mile radius of the project site. The project is also within the watershed of the intake.

**3(c) Agency Recommendations.** Care should be taken while transporting materials in and out of the project site to prevent impacts to surface water intakes within 5 miles. Implement best management practices, including erosion and sedimentation controls as well as spill prevention controls and countermeasures, on the project site.

**3(d) Requirement.** Potential impacts to public water distribution systems or sanitary sewage collection systems must be verified by the local utility, according to VDH ODW.

### **4. Historic and Archaeological Resources.**

**4(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.

**4(b) Requirement.** DHR requests request that the U.S. Army Corps of Engineers or its agents consult directly with DHR, as necessary, pursuant to Section 106 of the National Historic Preservation Act (as amended) and its implementing regulations codified at 36 CFR Part 800, which require federal agencies to consider the effects of their undertakings on historic properties.

**5. Pollution Prevention.** DEQ advocates that principles of pollution prevention be used in all construction projects as well as in facility operations. Effective siting, planning and on-site best management practices will help to ensure that environmental impacts are minimized. However, pollution prevention techniques also include decisions related to construction materials, design and operational procedures that will facilitate the reduction of wastes at the source.

**5(a) Agency Recommendations.** We have several pollution prevention recommendations that may be helpful during the construction:

- Consider environmental attributes when purchasing materials. For example, the extent of recycled material content, toxicity level and amount of packaging should be considered and can be specified in purchasing contracts.
- Consider contractors' commitment to the environment when choosing contractors. Specifications regarding raw materials and construction practices can be included in contract documents and requests for proposals.
- Choose sustainable materials and practices for infrastructure and building construction and design. These could include asphalt and concrete containing recycled materials, and integrated pest management in landscaping, among other things.

The DEQ Office of Pollution Prevention provides information and technical assistance relating to pollution prevention techniques. If interested, please contact DEQ (Meghann Quinn at 804-698-4021).

**6. 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 (804-786-3501).

**7. Local and Regional Comments.** As customary, DEQ invited the City of Norfolk and the Hampton Roads Planning District Commission (PDC) to comment on the project.

**7(a) Jurisdiction.** In accordance with CFR 930, Subpart A, § 930.6(b) of the Federal Consistency Regulations, DEQ, on behalf of the state, is responsible for securing necessary review and comment from other state agencies, the public, regional government agencies, and local government agencies, in determining the Commonwealth's concurrence or objection to a federal consistency certification.

**7(b) Regional Comments.** The HRPDC states that the proposal appears to be consistent with local and regional plans and policies.

## **REGULATORY AND COORDINATION NEEDS**

**1. Wetlands Management.** The project must comply with the Virginia Water Protection Program (Virginia Code § 62.1-44.15 et seq.; 9VAC25-210 et seq.) as necessary.

Contact DEQ (Bert Parolari at Bert.Parolari@deq.virginia.gov) for additional information regarding VWPP requirements.

**2. Subaqueous Lands Management.** The applicant must obtain a VMRC subaqueous lands permit to be consistent with the subaqueous lands management enforceable policy of the Virginia CZM Program. Contact VMRC (Rachael Maulorico at Rachael.Maulorico@mrc.virginia.gov) for additional information.

**3. Air Pollution Control.** Guidance on minimizing the emission of volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) during construction may be obtained from DEQ TRO (Wayne Franklin at Wayne.Franklin@deq.virginia.gov).

**4. Solid and Hazardous Wastes.** 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 (Sean Priest at 757-518-2141) for additional information on waste management as necessary.

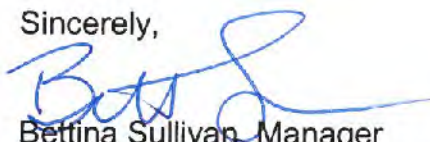
**5. Natural Heritage Resources.** Contact the DCR DNH (804-371-2708) and re-submit project information and a map for an update on this natural heritage information if the scope of the project changes and/or six months has passed before it is utilized. Contact DCR DNH for additional information regarding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

**6. Fisheries Management.** Contact DGIF (Amy Ewing at Amy.Ewing@dgif.virginia.gov) for additional information about its comments if necessary.

**7. Historic and Archaeological Resources.** Coordinate with DHR (Greg LaBudde at Greg.LaBudde@dhr.virginia.gov) pursuant to Section 106 of the National Historic Preservation Act (as amended) and its implementing regulations codified at 36 CFR Part 800, which require federal agencies to consider the effects of their undertakings on historic properties.

Thank you for the opportunity to comment on the FCC. The detailed comments of reviewers are attached. If you have questions, please do not hesitate to call me at (804) 698-4204 or Julia Wellman at (804) 698-4326.

Sincerely,



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

## Enclosures

ec: Traycie West, USACE  
Rebecca Francese, Waterway Surveys and Engineering  
Marcus D. Jones, City of Norfolk  
Ben McFarlane, HRPDC  
Amy Ewing, DGIF  
Robbie Rhur, DCR  
Susan Douglas, VDH  
Roger Kirchen, DHR  
Tony Watkinson, VMRC



## Wellman, Julia (DEQ)

---

**From:** Maulorico, Rachael (MRC)  
**Sent:** Friday, November 04, 2016 8:55 AM  
**To:** Wellman, Julia (DEQ)  
**Cc:** Johnson, Mike (MRC)  
**Subject:** RE: NEW PROJECT ACOE West Belvedere Rd 16-179F

Hello,

The below project involves the use of state owned submerged lands and will require a VMRC permit and a public interest review. The VMRC is currently in the environmental review process and is working with the applicant for acceptable mitigative measures.

Thank you

*Rachael L. Maulorico  
Habitat Engineer  
Virginia Marine Resources Commission  
2600 Washington Avenue, 3rd Floor  
Newport News, VA 23607  
Phone: 757-247-8027  
Cell: 757-504-7276*

**From:** Wellman, Julia (DEQ)  
**Sent:** Thursday, November 03, 2016 4:50 PM  
**To:** Maulorico, Rachael (MRC) <[Rachael.Maulorico@mrc.virginia.gov](mailto:Rachael.Maulorico@mrc.virginia.gov)>  
**Subject:** RE: NEW PROJECT ACOE West Belvedere Rd 16-179F

I understand that the JPA number is #16-0321.

Julia Wellman  
Environmental Impact Review Coordinator  
Department of Environmental Quality  
629 E Main Street  
Richmond, VA 23219  
(804) 698-4326  
[Julia.Wellman@deq.virginia.gov](mailto:Julia.Wellman@deq.virginia.gov)  
[www.deq.virginia.gov](http://www.deq.virginia.gov)

\*\*\*\* For program updates and public notices, please subscribe to the [OEIR News Feed](#).\*\*\*\*

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**From:** Johnson, Mike (MRC)  
**Sent:** Thursday, November 03, 2016 3:46 PM  
**To:** Wellman, Julia (DEQ)  
**Cc:** Maulorico, Rachael (MRC)  
**Subject:** RE: NEW PROJECT ACOE West Belvedere Rd 16-179F

Good afternoon,  
Rachael covers the City of Norfolk. I have cc'd her on this email and she will respond to you on this matter.

Mike Johnson  
Habitat Management Division  
VMRC  
2600 Washington Ave.  
Newport News, Va 23607  
757-247-2255

---

**From:** Wellman, Julia (DEQ)  
**Sent:** Thursday, November 03, 2016 3:37 PM  
**To:** Johnson, Mike (MRC)  
**Subject:** FW: NEW PROJECT ACOE West Belvedere Rd 16-179F  
**Importance:** High

Hi Mike, Do you have comments on this project? I understand that VMRC is reviewing it for a permit. Please get back to me today if possible.

---

**From:** Fulcher, Valerie (DEQ)  
**Sent:** Tuesday, August 16, 2016 11:59 AM  
**To:** dgif-ESS Projects (DGIF); Rhur, Robbie (DCR); odwreview (VDH); Dacey, Katy (DEQ); Narasimhan, Kotur (DEQ); Moore, Daniel (DEQ); Robinson, Cindy (DEQ); Kirchen, Roger (DHR); Watkinson, Tony (MRC); Ben McFarlane; [jmcbride@hrpdcva.gov](mailto:jmcbride@hrpdcva.gov); [lee.perkins@norfolk.gov](mailto:lee.perkins@norfolk.gov)  
**Cc:** Wellman, Julia (DEQ)  
**Subject:** NEW PROJECT ACOE West Belvedere Rd 16-179F

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

**Document Type:** Federal Consistency Certification  
**Project Sponsor:** Army Corps of Engineers  
**Project Title:** West Belvedere Road Dredging Project  
**Location:** City of Norfolk  
**Project Number:** DEQ #16-179F

The document is available at [www.deq.virginia.gov/files/oeir](http://www.deq.virginia.gov/files/oeir) in the ACOE folder.

The due date for comments is SEPTEMBER 23, 2016. You can send your comments either directly to Julia 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, 629 E. Main St., 6th Floor, Richmond, VA 23219.

**NOTE:** This project qualifies for a Corps IP.

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, Environmental Program Specialist  
Department of Environmental Quality  
Environmental Enhancement - Office of Environmental Impact Review  
629 E. Main St., 6th Floor  
Richmond, VA 23219  
804/698-4330  
804/698-4319 (Fax)  
email: [Valerie.Fulcher@deq.virginia.gov](mailto:Valerie.Fulcher@deq.virginia.gov)  
<http://www.deq.virginia.gov/Programs/EnvironmentalImpactReview.aspx>

For program updates and public notices please subscribe to the [OEIR News Feed](#)

## Wellman, Julia (DEQ)

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**From:** Ewing, Amy (DGIF)  
**Sent:** Thursday, November 03, 2016 4:35 PM  
**To:** Wellman, Julia (DEQ)  
**Subject:** ESSLog#3726\*\_16-179F\_WBelvidereRdDredging\_DGIF\_AME20161103


Hi Julia,

Assuming adherence to erosion and sediment controls during dredging and placement of dredged materials, preferably in uplands, we don't anticipate this project to result in significant adverse impacts upon resources under our jurisdiction that have been documented from the project area. In addition, we find this project consistent with the Fisheries Management Section of the CZMA.

Sorry for the delay...I'm not sure this one ever made it to my desk (at least until now), but it was logged in.

Thanks, Amy

**Amy M. Ewing**

*Environmental Services Biologist/FWIS Biologist Supervisor  
Chair, Team WILD (Work, Innovate, Lead and Develop)  
VA Department of Game and Inland Fisheries  
7870 Villa Park Dr., Suite 400, PO Box 90778, Henrico, VA 23228  
804-367-2211  [www.dgif.virginia.gov](http://www.dgif.virginia.gov)*

 Please consider the environment before printing this email.

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**From:** Wellman, Julia (DEQ)  
**Sent:** Thursday, November 03, 2016 3:42 PM  
**To:** Ewing, Amy (DGIF)  
**Subject:** FW: NEW PROJECT ACOE West Belvedere Rd 16-179F  
**Importance:** High

Do you have comments on this one regarding fisheries management? If so, please get back to me today.

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

**Document Type:** Federal Consistency Certification  
**Project Sponsor:** Army Corps of Engineers  
**Project Title:** West Belvedere Road Dredging Project  
**Location:** City of Norfolk  
**Project Number:** DEQ #16-179F

The document is available at [www.deq.virginia.gov/filesshare/oeir](http://www.deq.virginia.gov/filesshare/oeir) in the **ACOE** folder.



## Wellman, Julia (DEQ)

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**From:** Warren, Arlene (VDH)  
**Sent:** Thursday, September 08, 2016 2:57 PM  
**To:** Wellman, Julia (DEQ)  
**Subject:** RE: NEW PROJECT ACOE West Belvedere Rd 16-179F

**Project Name: West Belvedere Road Dredging Project**

Project #: 16-179 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:

PWSID	SYSNAME	FACNAME
3710100	NORFOLK, CITY OF	IN-TOWN LAKES

The project is within the watershed of the following public surface water sources (intakes where the project falls within 5 miles into their watershed are formatted in **bold**):

PWSID	SYSNAME	FACNAME
3710100	NORFOLK, CITY OF	IN-TOWN LAKES

- *Comments from OEHS Division of Shellfish Sanitation, Mr. Eric Aschenbach were as following; "I already supplied comments directly to VMRC under JPA permit #16-0042. I do not have any additional comments. Thanks, Eric"*
- *No comments were received from Environmental Epidemiology, Mr. Dwight Flammia.*

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

Care should be taken while transporting materials in and out of the project site, as to prevent impacts to surface water intakes within 5 miles.

There may be impacts to public drinking water sources due to this project if the mitigation efforts outlined above are not implemented.

Best regards,

Arlene Fields Warren  
Virginia Department of Health,  
Office of Drinking Water  
James Madison Building  
109 Governor St,  
Richmond, VA 23219  
804.864.7781

---

**From:** Fulcher, Valerie (DEQ)  
**Sent:** Tuesday, August 16, 2016 11:59 AM  
**To:** dgif-ESS Projects (DGIF); Rhur, Robbie (DCR); odwreview (VDH); Dacey, Katy (DEQ); Narasimhan, Kotur (DEQ); Moore, Daniel (DEQ); Robinson, Cindy (DEQ); Kirchen, Roger (DHR); Watkinson, Tony (MRC); Ben McFarlane; [jmcbride@hrpdcva.gov](mailto:jmcbride@hrpdcva.gov); [lee.perkins@norfolk.gov](mailto:lee.perkins@norfolk.gov)  
**Cc:** Wellman, Julia (DEQ)  
**Subject:** NEW PROJECT ACOE West Belvedere Rd 16-179F

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

**Document Type:** Federal Consistency Certification  
**Project Sponsor:** Army Corps of Engineers  
**Project Title:** West Belvedere Road Dredging Project  
**Location:** City of Norfolk  
**Project Number:** DEQ #16-179F

The document is available at [www.deq.virginia.gov/filesshare/oeir](http://www.deq.virginia.gov/filesshare/oeir) in the ACOE folder.

The due date for comments is SEPTEMBER 23, 2016. You can send your comments either directly to Julia 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, 629 E. Main St., 6th Floor, Richmond, VA 23219.

**NOTE:** This project qualifies for a Corps IP.

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:**



# COMMONWEALTH of VIRGINIA

## Department of Health DIVISION OF SHELLFISH SANITATION

109 Governor Street, Room 614-B  
Richmond, VA 23219

Ph: 804-864-7487  
Fax: 804-864-7481

### MEMORANDUM

**DATE:** 3/24/2016  
**TO:** Rachael Maulorico  
Virginia Marine Resources Commission  
**FROM:** B. Keith Skiles, MPH, Director  
Division of Shellfish Sanitation  
**SUBJECT:** West Belvedere Dredging Project

City / County: Norfolk

Waterbody: Lafayette River

Type: ☐ VPDES ☐ VMRC ☐ VPA ☐ VWP ☒ JPA ☐ Other:

Application / Permit Number: 16-0321

- ☐ The project will not affect shellfish growing waters.
- ☐ The project is located in or adjacent to approved shellfish growing waters, however, the activity as described will not require a change in classification.
- ☒ The project is located in or adjacent to condemned shellfish growing waters and the activity, as described, will not cause an increase in the size or type of the existing closure.
- ☐ The project will affect condemned shellfish waters and will not cause an increase in the size of the total condemnation. However, a prohibited area (an area from which shellfish relay to approved waters for self-purification is not allowed) will be required within a portion of the currently condemned area. See comments.
- ☐ A buffer zone (including a prohibited area) has been previously established in the vicinity of this discharge, however, the closure will have to be revised. Map attached.
- ☐ This project will affect approved shellfish waters. If this discharge is approved, a buffer zone (including a prohibited area) will be established in the vicinity of the discharge. Map attached.
- ☐ Other.

ADDITIONAL  
COMMENTS:

Area #: 65

eta

Molly Joseph Ward  
*Secretary of Natural Resources*

Clyde E. Cristman  
*Director*



Rochelle Altholz  
*Deputy Director of  
Administration and Finance*

David C. Dowling  
*Deputy Director of  
Soil and Water Conservation  
and Dam Safety*

Thomas L. Smith  
*Deputy Director of Operations*

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

**MEMORANDUM**

**DATE:** September 22, 2016  
**TO:** Julia Wellman, DEQ  
**FROM:** Roberta Rhur, Environmental Impact Review Coordinator  
**SUBJECT:** DEQ 16-179F, West Belvedere Road Dredging Project

**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.

Biotics historically documents the presence of natural heritage resources within two miles of the project area. However, due to the scope of the activity and the distance to the resources, we do not anticipate that this project will adversely impact these 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 Game and Inland Fisheries (VDGIF) 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 Ernie Aschenbach at 804-367-2733 or [Ernie.Aschenbach@dgif.virginia.gov](mailto:Ernie.Aschenbach@dgif.virginia.gov).

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

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
DIVISION OF AIR PROGRAM COORDINATION**

**ENVIRONMENTAL REVIEW COMMENTS APPLICABLE TO AIR QUALITY**

TO: Julia H. Wellman

DEQ - OEIA PROJECT NUMBER: DEQ #16-179F

PROJECT TYPE: ☐ STATE EA / EIR ☒ FEDERAL EA / EIS ☐ SCC

**X CONSISTENCY CERTIFICATION**

PROJECT TITLE: West Belvedere Road Dredging Project

PROJECT SPONSOR: Army Corps of Engineers

PROJECT LOCATION: ☒ OZONE ATTAINMENT  
AND EMISSION CONTROL AREA FOR NOX & VOC

REGULATORY REQUIREMENTS MAY BE APPLICABLE TO: ☒ DREDGING  
☐ OPERATION

**STATE AIR POLLUTION CONTROL BOARD REGULATIONS THAT MAY APPLY:**

1. ☐ 9 VAC 5-40-5200 C & 9 VAC 5-40-5220 E – STAGE I
2. ☐ 9 VAC 5-45-760 et seq. – Asphalt Paving operations
3. ☒ 9 VAC 5-130 et seq. – Open Burning
4. ☒ 9 VAC 5-50-60 et seq. Fugitive Dust Emissions
5. ☐ 9 VAC 5-50-130 et seq. – Odorous Emissions; Applicable to \_\_\_\_\_
6. ☐ 9 VAC 5-60-300 et seq. – Standards of Performance for Toxic Pollutants
7. ☐ 9 VAC 5-50-400 Subpart \_\_\_\_\_, Standards of Performance for New Stationary Sources, designates standards of performance for the \_\_\_\_\_
8. ☐ 9 VAC 5-80-1100 et seq. of the regulations – Permits for Stationary Sources
9. ☐ 9 VAC 5-80-1605 et seq. Of the regulations – Major or Modified Sources located in PSD areas. This rule may be applicable to the \_\_\_\_\_
10. ☐ 9 VAC 5-80-2000 et seq. of the regulations – New and modified sources located in non-attainment areas
11. ☐ 9 VAC 5-80-800 et seq. Of the regulations – State Operating Permits. This rule may be applicable to \_\_\_\_\_

**COMMENTS SPECIFIC TO THE PROJECT:**

All precautions are necessary to restrict the emissions of volatile organic compounds (VOC) and oxides of nitrogen (NO<sub>x</sub>).



(Kotur S. Narasimhan)  
Office of Air Data Analysis

DATE: August 18, 2016





**MEMORANDUM**

**TO:** Julia Wellman, DEQ/EIR Environmental Program Planner

**FROM:** Katy Dacey, Division of Land Protection & Revitalization Review Coordinator

**DATE:** August 19, 2016

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

**SUBJECT:** Environmental Impact Review: EIR Proj No 16-179F West Belvedere Road Dredging Project, City of Norfolk, VA

The Division of Land Protection & Revitalization (DLPR) has completed its cursory review of the West Belvedere Road Dredging Project located at

Project Scope: Dredging of a tributary of Lafayette River of approximately 1900 feet

Solid and hazardous waste issues were not addressed in the submittal. The submittal did not indicate that a search of Federal or State environmental databases was conducted. DLPR staff conducted a cursory search (500 foot radius of project corridor) of solid and hazardous waste databases for waste sites in close proximity to the project corridor, and did not identify any waste sites in close proximity which might impact the project. Additionally, one waste site of possible concern was located within the same zip code, 23505. The DEQ DLPR staff has reviewed the submittal and offers the following comments concerning possible waste issues associated with this proposed project:

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

**CERCLA Sites – one in the same zip code as the project corridor**

***VAD988204541, US Maritime Administration – James River Reserve Fleet, End of Harrison Road, Newport News, VA 23505, Not on NPL.***

The hazardous wastes/RCRA/Cerlis site information can be accessed from EPA's websites at <https://www3.epa.gov/enviro/>, <https://rcrainfopreprod.epa.gov/rcrainfoweb/action/main-menu/view> and <https://www.epa.gov/superfund>

**FUDS – none**

*Solid Waste – none*

*VRP – none*

*Petroleum Releases – none in close proximity to the project corridor*

## **GENERAL COMMENTS**

### **Soil, Sediment, and Waste Management**

Any soil 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.

### **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 Katy Dacey at (804) 698-4274.



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

*Street address:* 629 East Main Street, Richmond, Virginia 23219

*Mailing address:* P.O. Box 1105, Richmond, Virginia 23218

Fax: 804-698-4019 - TDD (804) 698-4021

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

Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director

(804) 698-4020  
1-800-592-5482

## **MEMORANDUM**

**TO:** Daniel Moore

**FROM:** Shawn Smith, Chesapeake Bay Local Assistance

**DATE:** September 2, 2016

**SUBJECT:** DEQ 16-179F, West Belvedere Road Dredging, City of Norfolk

We have reviewed the proposed West Belvedere Road Dredging project located in the City of Norfolk. The purpose of this project is to provide a neighborhood dredging project in the West Belvedere Road area, a tributary to the Lafayette River, to allow residents access to navigable channels in the Lafayette River.

Norfolk's local CBPA program includes designated Chesapeake Bay Preservation Areas in portions of the City. All work will occur over the subaqueous bottomlands of the unnamed canal just off the Lafayette River.

As this activity occurs solely over subaqueous lands, there are no Bay Act program requirements.





DEPARTMENT OF ENVIRONMENTAL QUALITY  
TIDEWATER REGIONAL OFFICE  
ENVIRONMENTAL IMPACT REVIEW COMMENTS

October 6, 2016

**PROJECT NUMBER:** 16-179F

**PROJECT TITLE:** West Belvedere Road Dredging Project

As Requested, TRO staff has reviewed the supplied information and has the following comments:

**Petroleum Storage Tank Cleanups:**

No comments.

**Petroleum Storage Tank Compliance/Inspections:**

No comments.

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

On March 7, 2016, DEQ received Joint Permit Application #16-0321 for the dredging of a recreational boating channel along West Belvedere Road. DEQ may issue an Individual Permit or a Waiver for this project. Provided the applicant receives the proper authorization from our program, this project will be consistent with the VWPP program.

**Air Permit Program :**

No air permitting issues identified.

**Water Permit Program :**

No comments.

**Waste Permit Program :**

All construction, demolition and debris waste, including excess soil and dredge spoil, must be characterized in accordance with the Virginia Hazardous Waste Management Regulations prior to management at an appropriate facility. For additional information, contact Sean Priest, DEQ-TRO at (757) 518-2141 or [jonathan.priest@deq.virginia.gov](mailto:jonathan.priest@deq.virginia.gov).

**Storm Water Program:**

No comments.

The staff from the Tidewater Regional Office thanks you for the opportunity to provide comments.



DEPARTMENT OF ENVIRONMENTAL QUALITY  
TIDEWATER REGIONAL OFFICE  
ENVIRONMENTAL IMPACT REVIEW COMMENTS

October 6, 2016

PROJECT NUMBER: 16-179F

PROJECT TITLE: West Belvedere Road Dredging Project

Sincerely,

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Cindy Robinson  
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## Wellman, Julia (DEQ)

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**From:** LaBudde, Gregory (DHR)  
**Sent:** Friday, September 16, 2016 3:06 PM  
**To:** Wellman, Julia (DEQ)  
**Subject:** RE: NEW PROJECT ACOE West Belvedere Rd 16-179F (DHR File No. 2016-0533)

Dear Ms. Wellman:

The Department of Historic Resources (DHR) has received the referenced OEIR review request. We request that the U.S. Army Corps of Engineers or its agents consult directly with DHR, as necessary, pursuant to Section 106 of the National Historic Preservation Act (as amended) and its implementing regulations codified at 36 CFR Part 800, which require federal agencies to consider the effects of their undertakings on historic properties.

Thank you for your consideration of historic resources. Please contact me if you have any questions.

Sincerely,

Greg LaBudde, Archaeologist  
Review and Compliance Division  
Department of Historic Resources  
2801 Kensington Avenue  
Richmond, VA 23221  
phone: 804-482-6103  
fax: 804-367-2391  
[gregory.labudde@dhr.virginia.gov](mailto:gregory.labudde@dhr.virginia.gov)

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**From:** Fulcher, Valerie (DEQ)  
**Sent:** Tuesday, August 16, 2016 11:59 AM  
**To:** dgif-ESS Projects (DGIF); Rhur, Robbie (DCR); odwreview (VDH); Dacey, Katy (DEQ); Narasimhan, Kotur (DEQ); Moore, Daniel (DEQ); Robinson, Cindy (DEQ); Kirchen, Roger (DHR); Watkinson, Tony (MRC); Ben McFarlane; [jmcbride@hrpdcva.gov](mailto:jmcbride@hrpdcva.gov); [lee.perkins@norfolk.gov](mailto:lee.perkins@norfolk.gov)  
**Cc:** Wellman, Julia (DEQ)  
**Subject:** NEW PROJECT ACOE West Belvedere Rd 16-179F

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

**Document Type:** Federal Consistency Certification  
**Project Sponsor:** Army Corps of Engineers  
**Project Title:** West Belvedere Road Dredging Project  
**Location:** City of Norfolk  
**Project Number:** DEQ #16-179F

The document is available at [www.deq.virginia.gov/files/oeir](http://www.deq.virginia.gov/files/oeir) in the ACOE folder.

The due date for comments is SEPTEMBER 23, 2016. You can send your comments either directly to Julia 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

## Wellman, Julia (DEQ)

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**From:** Ben McFarlane <bmcfarlane@hrpdcva.gov>  
**Sent:** Thursday, September 22, 2016 4:00 PM  
**To:** Wellman, Julia (DEQ)  
**Cc:** Sharon Lawrence; McCarthy, Seamus; lee.perkins@norfolk.gov  
**Subject:** DEQ #16-179F - West Belvedere Road Dredging Project

Ms. Wellman,

The HRPDC staff has reviewed the federal consistency certification for this project (DEQ #16-179F – West Belvedere Road Dredging Project). The proposal appears to be consistent with local and regional plans and policies.

We appreciate the opportunity to review this project. If you have any questions, please let me know.

Ben

**Benjamin J. McFarlane, AICP**  
**Senior Regional Planner**  
Hampton Roads Planning District Commission  
723 Woodlake Drive  
Chesapeake, VA 23320  
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## COMMONWEALTH of VIRGINIA

### DEPARTMENT OF ENVIRONMENTAL QUALITY

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Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director

(804) 698-4030  
1-800-592-5482

### Attachment 2

#### **Advisory Policies for Geographic Areas of Particular Concern**

- a. Coastal Natural Resource Areas - These areas are vital to estuarine and marine ecosystems and/or are of great importance to areas immediately inland of the shoreline. Such areas receive special attention from the Commonwealth because of their conservation, recreational, ecological, and aesthetic values. These areas are worthy of special consideration in any planning or resources management process and include the following resources:
  - a) Wetlands
  - b) Aquatic Spawning, Nursery, and Feeding Grounds
  - c) Coastal Primary Sand Dunes
  - d) Barrier Islands
  - e) Significant Wildlife Habitat Areas
  - f) Public Recreation Areas
  - g) Sand and Gravel Resources
  - h) Underwater Historic Sites
- b. Coastal Natural Hazard Areas - This policy covers areas vulnerable to continuing and severe erosion and areas susceptible to potential damage from wind, tidal, and storm related events including flooding. New buildings and other structures should be designed and sited to minimize the potential for property damage due to storms or shoreline erosion. The areas of concern are as follows:
  - i) Highly Erodible Areas
  - ii) Coastal High Hazard Areas, including flood plains.
- c. Waterfront Development Areas - These areas are vital to the Commonwealth because of the limited number of areas suitable for waterfront activities. The areas of concern are as follows:
  - i) Commercial Ports
  - ii) Commercial Fishing Piers
  - iii) Community Waterfronts

Although the management of such areas is the responsibility of local government and some regional authorities, designation of these areas as Waterfront Development Areas of Particular Concern (APC) under the VCP is encouraged.

Designation will allow the use of federal CZMA funds to be used to assist planning for such areas and the implementation of such plans. The VCP recognizes two broad classes of priority uses for waterfront development APC:

- i) water access dependent activities;
- ii) activities significantly enhanced by the waterfront location and complementary to other existing and/or planned activities in a given waterfront area.

### **Advisory Policies for Shorefront Access Planning and Protection**

- a. Virginia Public Beaches - Approximately 25 miles of public beaches are located in the cities, counties, and towns of Virginia exclusive of public beaches on state and federal land. These public shoreline areas will be maintained to allow public access to recreational resources.
- b. Virginia Outdoors Plan - Planning for coastal access is provided by the Department of Conservation and Recreation in cooperation with other state and local government agencies. The Virginia Outdoors Plan (VOP), which is published by the Department, identifies recreational facilities in the Commonwealth that provide recreational access. The VOP also serves to identify future needs of the Commonwealth in relation to the provision of recreational opportunities and shoreline access. Prior to initiating any project, consideration should be given to the proximity of the project site to recreational resources identified in the VOP.
- c. Parks, Natural Areas, and Wildlife Management Areas - Parks, Wildlife Management Areas, and Natural Areas are provided for the recreational pleasure of the citizens of the Commonwealth and the nation by local, state, and federal agencies. The recreational values of these areas should be protected and maintained.
- d. Waterfront Recreational Land Acquisition - It is the policy of the Commonwealth to protect areas, properties, lands, or any estate or interest therein, of scenic beauty, recreational utility, historical interest, or unusual features which may be acquired, preserved, and maintained for the citizens of the Commonwealth.
- e. Waterfront Recreational Facilities - This policy applies to the provision of boat ramps, public landings, and bridges which provide water access to the citizens of the Commonwealth. These facilities shall be designed, constructed, and maintained to provide points of water access when and where practicable.
- f. Waterfront Historic Properties - The Commonwealth has a long history of settlement and development, and much of that history has involved both shorelines and near-shore areas. The protection and preservation of historic shorefront properties is primarily the responsibility of the Department of Historic Resources. Buildings, structures, and sites of historical, architectural, and/or archaeological interest are significant resources for the citizens of the Commonwealth. It is the policy of the Commonwealth and the VCP to enhance the protection of buildings, structures, and sites of historical, architectural, and archaeological significance from damage or destruction when practicable.