

**WOLF TRAP ALTERNATE OPEN WATER PLACEMENT SITE
NORTHERN EXTENSION
FINAL ENVIRONMENTAL ASSESSMENT
OCTOBER 2019**

**APPENDIX G
Coastal Zone Management Act Conditional Consistency Determination and
Section 401 Water Quality Certification**

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Planning Division

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Environmental Impact Review and Long-Range Priorities
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Dear Ms. Rayfield:

The U.S. Army Corps of Engineers, Baltimore District (USACE), in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, has prepared a draft Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the proposed extension of the existing Wolf Trap Alternate Open Water Placement Site (WTAPS) to the north, increasing the size of the site by approximately 3,900 acres. The WTAPS Northern Extension would be located in the lower Chesapeake Bay between the Piankatank River and Mobjack Bay, approximately five miles east of Mathews County, Virginia. The EA and FONSI were prepared in partnership with the Maryland Port Administration, the non-federal sponsor.

The WTAPS Northern Extension would serve as an open water placement site for material dredged primarily from the York Spit Channel, which is part of the federally-maintained Baltimore Harbor and Channels 50-Foot Navigation Project. The WTAPS Northern Extension has been recommended by agencies of the Commonwealth of Virginia as an alternative to the currently-used WTAPS due to the potential for a high abundance of female blue crabs to overwinter in the southern portion of WTAPS.

Approximately 2.6 million cubic yards (mcy) of material dredged from the York Spit Channel would be placed into the WTAPS Northern Extension during initial placement, expected to begin in late fall of 2019. After initial placement, it is anticipated that approximately 1.5 mcy of material dredged from the York Spit Channel would be placed into the site approximately every 4 years, or until another alternate placement site or method is identified, approved, and implemented. Placement would not occur from Sept. 1 through Nov. 14 to minimize adverse impacts to sea turtles. The proposed project does not include any changes to ongoing maintenance dredging activities or any other actions beyond the establishment of the placement site extension. In FY 2020, USACE plans to begin a comprehensive evaluation of alternatives to WTAPS through a Dredged Material Management Plan for the portion of the Baltimore Harbor and Channels Navigation Project located in Virginia.

The draft EA and FONSI were made available to the public for a 30-day review on July 19, 2019.

The following documents are provided for review by the Commonwealth of Virginia:

1. NEPA documents including the draft EA, FONSI and appendices. These documents are also available via the USACE website at:
<https://www.nab.usace.army.mil/Missions/Civil-Works/Dredged-Material-Management-Plan-DMMP>.
2. Federal consistency documentation pursuant to the federal Coastal Zone Management (CZM) Act of 1972, as amended.

I hope that we have satisfactorily provided all of the information required to facilitate your CZM decision. It is our understanding that the Water Quality Certification (WQC) pursuant to Section 401 of the Clean Water Act would be covered under the CZM concurrence process, and that a separate WQC request is not required. The Clean Water Act Section 404(b)(1) Evaluation can be found in Appendix D of the draft EA.

This action was proposed to USACE by the Commonwealth of Virginia to reduce impacts to overwintering female blue crabs associated with periodic maintenance dredging of the York Spit Channel. In order to protect overwintering blue crabs and ensure that the WTAPS northern extension is available for dredging scheduled for late this year, we request your agency's timely consideration and response to this request. We are ready and willing to provide any additional information that you may need to complete your review. Please provide comments to Kristina May by email at Kristina.K.May@usace.army.mil or by telephone at 410-962-6100.

Sincerely,



Daniel M. Bierly, P.E.
Chief, Civil Project Development Branch
Planning Division

Enclosures

**Wolf Trap Alternate Open Water Placement Site Northern Extension
Virginia Waters of the Chesapeake Bay
Federal Consistency Documentation
July 2019
Prepared by the U.S. Army Corps of Engineers, Baltimore District**

This document provides the Commonwealth of Virginia (VA) with the U.S. Army Corps of Engineers' (USACE) Consistency Determination and necessary data and information under the Coastal Zone Management Act (CZMA), Section 307(c)(1), for the proposed *Wolf Trap Alternate Open Water Placement Site Northern Extension* (WTAPSNE), which lies in the VA Waters of the Chesapeake Bay. The information in this Consistency Determination is provided pursuant to 15 CFR §930.39.

Description of Proposed Action

This proposed federal agency activity is described in detail in the July 2019 WTAPSNE draft Finding of No Significant Impact (FONSI) and Environmental Assessment (EA). The proposed USACE action would include:

- Establishing an extension of the existing 2,300 acre Wolf Trap Alternate Open Water Placement Site (WTAPS) to the north, increasing the size of the placement site by approximately 3,900 acres.
- Placing approximately 2.6 million cubic yards (mcy) of dredged material from operation and maintenance of the York Spit Channel into WTAPSNE during the initial placement event that is expected to begin in late fall of 2019. After initial placement into WTAPSNE, it is anticipated that approximately 1.5 mcy of dredged material from the York Spit Channel would be placed into site open waters approximately every 4 years, or until another alternate placement site or method is identified, approved and implemented.
- WTAPSNE would serve as an open water placement site for dredged material primarily from the York Spit Channel, but may also be used as a placement site for other dredging projects in the lower Chesapeake Bay pending evaluation.
- The proposed action does not include any changes to or consideration of the ongoing maintenance dredging activities or any other actions beyond the establishment of the new placement site itself.

Assessment of Probable Effects

The proposed WTAPSNE would affect the water uses and natural resources of the VA coastal zone. USACE is required to determine the consistency of the activity with the VA Coastal Resources Zone Management Program (VACZMP). The publication *Federal Consistency Information Package for Virginia Coastal Zone Management Program* (July 2011) identifies VA's designated coastal resources management areas and contains multiple enforceable policies.

USACE reviewed the VACZMP and determined that fisheries management, subaqueous lands management, point source pollution control, and air pollution control enforceable policies are

applicable to WTAPSNE¹. The text below briefly describes applicable VACZMP enforceable policies, and describes reasonably foreseeable effects with respect to each policy. (Sections 8 through 12 of the July 2019 draft FONSI and EA contain a detailed analysis of these effects.)

Fisheries Management - The VA program stresses the conservation and enhancement of finfish and shellfish resources and the promotion of commercial and recreational fisheries to maximize food production and recreational opportunities.

The proposed action was formulated to minimize impacts to wintering blue crab. According to blue crab winter dredge survey data collected by the Virginia Institute of Marine Science (VIMS) between 2009 and 2016 WTAPS (Lipcius & Knick, 2016), the southern portion of WTAPS, supports a high abundance of overwintering female blue crabs. Adverse effects to these overwintering female crabs would be reduced by instead placing dredged material at WTAPSNE. Thus, the proposed action would be consistent with policies seeking to conserve and enhance the blue crab fishery. The proposed action to place dredged material in open water at WTAPSNE would otherwise be equivalent in effect to ongoing placement of material at the WTAPS. Open water menhaden and striped bass fisheries would continue to be temporarily impacted by navigation limitations in WTAPSNE during each placement cycle, but would instead utilize other adjacent open Bay waters as they currently do when material is placed at WTAPS.

Subaqueous Lands Management - The VA program establishes conditions for granting or denying permits to use state-owned bottomlands based on considerations of potential effects on marine and fisheries resources, wetlands, adjacent or nearby properties, anticipated public and private benefits, and water quality standards.

The benthic community in WTAPSNE is characterized by opportunistic and equilibrium species that are adapted to and tolerant of bottom-disturbing events such as major storms. The existing community is also probably exposed to episodic oxygen stress and hypoxia, at least during some summers. Bottom-dump placement of dredged material typically produces mounded deposits on the Bay bottom, and the thickness of such mounds and the force of impacting sediment will be lethal to benthic organisms within the footprint of the deposit.

It is expected that the benthic community would recolonize within approximately one season, or at most 1.5 years. It is expected that the project would have minimal effect on the benthic communities. Many organisms would be able to burrow back to the surface, and recolonization would occur due to immigration from adjacent and nearby locations.

During the anticipated life of the project, successive dredged material placement events will raise the average bottom elevation within the project area from the current average of -36 feet MLLW, up to a maximum of -30 feet MLLW. The actual magnitude of this change over time would be subject to rates of sedimentation within the York Spit Channel, as well as prevailing currents, major storms and other factors which affect the movement of sediments in the area. The relative

¹ USACE determined that VACZMP enforceable policies on marine antifoulant paints containing Tributyltin (TBT), wetlands management, dunes management, non-point source pollution control, shoreline sanitation and coastal lands management are not applicable to the proposed action.

change in depth would be greatest within the deep “trough” portion of WTAPSNE. The cumulative effects of this bathymetric change are not expected to constitute a substantially adverse effect on benthic communities. These depth changes may cause minor changes in the relative abundances of benthic taxa, but are not expected to fundamentally alter the benthic community type. Given that the deepest waters in the general vicinity of the project area are subject to seasonal hypoxia, it is possible that decreasing these depths, particularly within the trough, may reduce the frequency and severity of summer oxygen stress experienced by benthic organisms in those areas. The estimated decrease in average depths is based on current bathymetry and expected rates of dredging, and does not consider relative sea level changes. Recent climate models predict a relative rise in sea levels within the region which, regardless of magnitude, would have the effect at least partially offsetting the changes in depth caused by the project.

Short-term project effects to blue crabs would consist primarily of direct mortality, by burial or asphyxiation, of overwintering female crabs, when these crabs are present within the dredged material placement area. Cold temperatures reduce the crabs’ locomotor ability, and would make overwintering females susceptible to mortality by burial, especially in overburden thicknesses greater than 10cm.

When assessing the significance of this effect, however, it must be remembered that the WTAPSNE site is believed to support fewer overwintering female crabs than the currently-used WTAPS site. As previously discussed, a deep muddy channel runs through the center of WTAPSNE. According to the Dredge Disposal Effects on Blue Crab Report provided by VIMS, crab density will almost always be low in muddy habitats. It is likely that within the deeper, muddy channel, crab density will almost always be low due to the muddy habitat, which is usually avoided as an overwintering habitat by blue crabs.

Point Source Pollution Control – Water quality certification (WQC) requirements of Section 401 of the Clean Water Act of 1972 are administered under the VA Water Protection Permit Program. The Clean Water Act requires states to verify and certify that applications for federal licenses or permits for discharge into navigable waters comply with state water quality standards.

Placement activities would generate turbidity that would cause temporary adverse impacts to water quality in the WTAPSNE during each placement cycle as material settles to the bottom and disperses in the water column. Depending on the size and types of dredge vessels used, 2 to 5 loads of dredged material would be placed at WTAPSNE per day. Each maintenance dredging cycle would take approximately 4 ½ months, every four years. Each open water placement load would create some degree of turbidity in excess of ambient conditions up to 6,500 ft from the discharge location for less than an hour. Additionally, infrequent resuspension of placed material from the bottom would occur when high wave energy generates strong bottom currents. However, impacts to water quality of proposed placement at WTAPSNE would be equivalent to open water placement at WTAPS. Thus, there would be no change in impacts to water quality from the proposed action. USACE would abide by stipulations imposed by VA to protect water quality.

Because the proposed action is a USACE project, it is USACE's understanding that WQC requirements will be evaluated under the CZMP Consistency Certification process². On October 30, 2013, the Commonwealth of Virginia issued a VA Water Protection Permit (13-0593) and a Section 401 WQC for placement of dredged material into WTAPS from maintenance dredging of the York Spit Channel. The permit and WQC expire on October 29, 2028.

Air Pollution Control - The program implements the federal Clean Air Act to provide a legally enforceable State Implementation Plan (SIP) for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS).

Mathews County, VA (the closest county to the proposed action area) and neighboring VA counties including Gloucester, York and Northampton Counties are all currently in attainment with the NAAQS (40 CFR Part 50) for the six principal criteria pollutants. Because the proposed action area is in attainment and no new stationary emissions sources will be created as part of the proposed action, no air quality conformity analysis is required. The proposed action would be in accordance with the VA SIP.

Summary of Findings

Based upon the information, data, and analysis summarized above and presented in the WTAPSNE draft FONSI and EA, USACE finds that the WTAPSNE is consistent to the maximum extent practicable with the enforceable policies of the VACZMP. The proposed project would be constructed and operated in a manner that is consistent with the VACZMP. USACE certifies that the proposed activity complies with the enforceable policies of the VACZMP and will be conducted in a manner consistent with the VACZMP.

Pursuant to 15 CFR Section 930.41, the VACZMP has 60 days from the receipt of this letter in which to concur with or object to this Consistency Determination, or to request an extension under 15 CFR section 930.41(b). Virginia's concurrence will be presumed if its response is not received by the USACE Baltimore District on the 60th day from receipt of this determination. The State's response should be sent to:

U.S. Army Corps of Engineers, Baltimore District
Attn: Kristina May, Biologist
Planning Division
2 Hopkins Plaza
Baltimore, MD 21201
kristina.k.may@usace.army.mil

² Personal communication, David Davis of VADEQ on 5/13/2019 to Andrew May, USACE.



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September 17, 2019

U.S. Army Corps of Engineers- Baltimore District
ATTN: Kristina May, Biologist
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Baltimore, MD 21201
Via Email: Kristina.k.may@usace.army.mil

RE: Comments on the Draft Environmental Assessment and Federal Consistency Determination for the Wolf Trap Alternate Open Water Placement Site Northern Extension (WTAPSNE), U.S. Army Corps of Engineers, Virginia Waters of the Chesapeake Bay (DEQ 19-0074F).

Dear Ms. May:

The Commonwealth of Virginia has completed its review of the above-referenced documents. The Department of Environmental Quality (DEQ) is responsible for coordinating Virginia's review of federal environmental documents submitted under the National Environmental Policy Act (NEPA) and responding to appropriate federal officials on behalf of the Commonwealth. DEQ is also responsible for coordinating Virginia's review of federal consistency documents submitted pursuant to the Coastal Zone Management Act (CZMA) and providing the state's response. This is in response to the July 2019 Draft Environmental Assessment (DEA) and the Federal Consistency Determination (FCD) for the above referenced project received July 19, 2019. The following agencies participated in the review of this proposal:

Department of Environmental Quality
Department of Historic Resources (DHR)
Marine Resources Commission (VMRC or Commission)
Virginia Institute of Marine Science (VIMS)
Department of Game and Inland Fisheries (DGIF)

PROJECT DESCRIPTION

The U.S. Army Corps of Engineers (Corps) proposes to establish a northern extension of the existing 2,300-acre Wolf Trap Alternate Open Water Placement Site (WTAPS), increasing the size of the site by approximately 3,900 acres. The new site, known as the Wolf Trap Alternate Open Water Placement Site Northern Extension (WTAPSNE) will be used as a placement site for 2.6 million cubic yards (mcy) of dredged material from the operation and maintenance of the York Spit Channel, a federally-maintained channel which is part of the Baltimore Harbor and Channels 50-Foot Navigation project. The initial placement event is expected to begin in late fall 2019. Depending on the size and types of dredge vessels used, two to five loads of dredge material would be placed at WTAPSNE per day. Approximately every four years thereafter, an additional 1.5 mcy of dredged material from the channel will be placed in the WTAPSNE. Each maintenance dredging cycle is expected to take approximately four and a half months. The WTAPSNE will be primarily used as an open water placement site for dredged material from the York Spit Channel, but may be used for placement of material from other dredging projects in the lower Chesapeake Bay, pending evaluation. The proposed action is solely for the establishment of the new placement site and does not include any changes to or consideration of ongoing maintenance dredge activities.

CONCLUSION

Concerns related to impacts to subaqueous lands and fisheries resources have been raised by VMRC and VIMS. Coordination with VMRC will be necessary to address concerns related to the subaqueous lands management and fisheries management enforceable policies of the Virginia Coastal Zone Management (CZM) Program, particularly as they relate to maintenance cycles beyond the 2019 cycle. DEQ conditionally concurs that the proposal is consistent with the Virginia Coastal Zone Management (CZM) Program provided all applicable permits and approvals of the enforceable policies of the Virginia CZM Program and conditions outlined in this document are met. Refer to the Federal Consistency under the Coastal Zone Management Act section (pages 10-11) for more details.

Provided activities are performed in accordance with the recommendations which follow in the Environmental Impacts and Mitigation section of this report, this proposal is unlikely to have significant effects on ambient air quality, water quality, tidal or non-tidal wetlands, and historic resources. It is unlikely to adversely affect fish species listed by state agencies as rare, threatened, or endangered.

ENVIRONMENTAL IMPACTS AND MITIGATION

1. Water Quality and Wetlands. According to the DEA (page 46), the open water placement of dredge material will create some turbidity up to 6,500 feet from the discharge location. Due to the high flushing rate of the Chesapeake Bay, turbidity plumes are expected to disperse quickly and no long-term impacts to water quality are expected. Impacts to non-tidal wetlands were not identified in the DEA or FCD.

According to the FCD (page 4) an individual Virginia Water Protection Permit (15-0593) and Section 401 Water Quality Certification (WQC) was issued by DEQ on October 30, 2013 for the maintenance dredging of the York Spit Channel and the placement of dredged material into WTAPS. The permit and WQC expire on October 29, 2028.

1(a) Agency Jurisdiction. The State Water Control Board promulgates Virginia's water regulations covering a variety of permits to include the [Virginia Pollutant Discharge Elimination System Permit](#) (VPDES) regulating point source discharges to surface waters, Virginia Pollution Abatement Permit regulating sewage sludge, storage and land application of biosolids, industrial wastes (sludge and wastewater), municipal wastewater, and animal wastes, the [Surface and Groundwater Withdrawal Permit](#), and the [Virginia Water Protection \(VWP\) Permit](#) regulating impacts to streams, wetlands, and other surface waters. The VWP permit is a state permit which governs wetlands, surface water, and surface water withdrawals and 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 VWP Permit Program is under the Office of Wetlands and Stream Protection, within the DEQ Division of Water Permitting. In addition to central office staff that review and issue VWP permits for transportation and water withdrawal projects, the six DEQ regional offices perform permit application reviews and issue permits for the covered activities:

- Clean Water Act, §401;
- Section 404(b)(i) Guidelines Mitigation Memorandum of Agreement (2/90);
- State Water Control Law, [Virginia Code](#) section 62.1-44.15:20 *et seq.*; and
- State Water Control *Regulations*, 9 VAC 25-210-10.

The Virginia Marine Resources Commission regulates encroachments in, on or over tidal wetlands pursuant to Virginia Code §28.2-1200 through 1400.

1(b) Agency Findings. The VWP program at the DEQ Piedmont Regional Office (PRO) stated that it had no comment on the proposal.

DEQ Tidewater Regional Office confirmed that the individual Virginia Water Protection Permit (15-0593) was issued with an effective period of October 30, 2013 through October 29, 2028. The permit is for the maintenance dredging of the York Spit Channel and the disposal of spoils at the WTAPS. A permit modification is not required.

DEQ issued a letter to the Corps on October 2, 2015, defining when federal navigation channel dredging and aquatic resource restoration activities conducted by the Corps require a VWP Permit. It is DEQ's position that, provided a FCD submitted by the Corps for maintenance dredging of an existing federal navigation has received DEQ's concurrence that the project is consistent to the maximum extent practicable with the enforceable policies of the Virginia CZM Program, no VWP Permit or permit fee will be required, including reissuance of any expired VWP permit.

According to TRO, if the project proceeds as proposed and the proponent complies with all CZM recommendations, then this satisfies our Section 401 certification requirements.

The VMRC did not indicate that tidal wetlands under its jurisdiction will be impacted.

1(c) CZMA Federal Consistency. As proposed, this project is consistent with the wetlands management enforceable policy of the Virginia Coastal Zone Management (CZM) Program (see Federal Consistency under the CZMA section below for additional information).

2. Subaqueous Lands. According to the DEA (page 28), the bottom of the proposed action area is a flat, featureless plain with a deep channel running lengthwise through the site. Water depths range from 23-55 feet mean lower low water (MLLW), with an average depth of 36 MLLW. The DEA (page 46) notes that overboard placement of dredge material will alter the bathymetry of the site. The thickness of material that would be deposited from one maintenance dredge cycle of the York Spit Channel would range from two inches to two feet thick. The capacity of WTAPSNE is over 30 mcy which assumes placement of material within the site boundaries up to an approximate depth of -30 feet MLLW. Over the life of the project (through 2100) the depth of the site could change from -36 MLLW to -30 MLLW.

The FCD (page 2) notes the bottom-dump placement of dredged material will be lethal to benthic organisms due to the force of impacting sediment and the burial of organisms. The benthic community is expected to recolonize within approximately one season or at most one and a half years.

2(a) Agency Jurisdiction. The Virginia Marine Resources Commission regulates encroachments in, on or over state-owned subaqueous beds as well as tidal wetlands and beaches and dunes pursuant to Virginia Code §28.2-1200 through 1400. For nontidal waterways, VMRC states that it has been the policy of the Habitat Management Division to exert jurisdiction only over the beds of perennial streams where the upstream drainage area is 5 square miles or greater. The beds of such waterways are considered public below the ordinary high water line.

2(b) Agency Comments. VMRC states that WTAPSNE is located on submerged lands of the Commonwealth. The use of the original site (WTAPS) for dredged material disposal was authorized by virtue of a 1981 agreement between Virginia and Maryland

for material dredged from the Baltimore Harbor Channel within the Virginia portion of the Chesapeake Bay. The agreement stipulates that Virginia may designate alternate disposal sites such as the WTAPSNE.

The VMRC and VIMS have provided extensive scoping comments and participated in numerous meetings with the Baltimore District since 2013 outlining the Commonwealth's position on the adverse impacts to blue crab and finfish resources impacted by the overboard placement of dredged material at WTAPS. In light of these concerns, Virginia Secretary of Natural Resources Matthew Strickler advised in his January 14, 2019, letter to Colonel John Litz that the Commonwealth cannot support the future use of WTAPS. He recommended that the placement of the material dredged from York Spit be restricted to the 2019 maintenance cycle only and that any future maintenance include a thorough evaluation of alternative options that include beneficial use opportunities as well as disposal outside the Chesapeake Bay. For the next maintenance cycle (2019), VMRC and VIMS had recommended moving the placement to the north, in what has been referred to now as the WTAPSNE in order to reduce impacts on blue crabs.

2(c) Agency Finding. Given the project's potential for adverse impacts to marine resources in the Commonwealth, use of WTAPSNE beyond the 2019 maintenance cycle is viewed by the Commission as inconsistent with the submerged lands enforceable policy that is part of Virginia's Coastal Zone Management Program.

2(d) Agency Recommendation. Suitable dredge material must be recognized as a resource for potential beneficial projects throughout the Commonwealth. Furthermore, the ongoing practice to pursue overboard placement in the Commonwealth of Virginia as the "least costly, environmentally acceptable alternative" needs to be reconsidered in light of potential adverse ecological impacts to the Chesapeake Bay and adverse economic impacts to the Commonwealth's tidal fisheries.

2(e) VMRC Requirement. For consistency in the 2019 maintenance cycle, overboard placement must be limited to Cells 4 and 5 at WTAPSNE given the deeper waters present.

Unless the 1981 Agreement is maintained or amended for future maintenance cycles, any potential future use of WTAPSNE beyond the 2019 maintenance cycle may only be authorized by the full Commission by subaqueous permit provided the Port of Maryland and the Baltimore District demonstrate that significant progress has been achieved in the evaluation of beneficial use alternatives. Should significant progress not be demonstrated, consistency may only be achieved by eliminating the overboard placement of dredge spoil in the Virginia portion of the Chesapeake Bay.

2(f) CZMA Federal Consistency. Further coordination with and approvals from VMRC are necessary in order for the project to be consistent to the maximum extent practicable with the subaqueous lands management enforceable policy of the Virginia

CZM Program (see **Federal Consistency Conditional Concurrence**, page 11).

3. Fisheries Management. The DEA (page 44) notes that slow-moving benthic fish species, eggs and larvae would be buried by sediment but adverse effects to bottom feeder finfish are expected to be negligible. Most finfish will be only temporarily displaced in the water column by the activity.

According to the FCD (page 2), the proposed action was developed to minimize impacts to wintering blue crab populations. Based on surveys completed by VIMS from 2009-2016, WTAPS was determined to support a high abundance of overwintering female blue crabs. Adverse effects to the crabs would be reduced by placing dredge material at WTAPSNE. Impacts to open water menhaden and striped bass fisheries would continue to be temporary as a result of the dredge placement. These species would be able to utilize other adjacent open Bay waters as they currently do when material is placed in WTAPS.

3(a) Agency Jurisdiction. 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) have management authority for the conservation and enhancement of finfish and shellfish resources in the Commonwealth.

3(b) Agency Comments.

3(b)(i) Virginia Department of Game and Inland Fisheries. DGIF states that as the open water placement site is located in the Chesapeake Bay, it defers the consistency determination to VMRC.

3(b)(ii) Virginia Marine Resources Commission. As stated above, extensive discussions have been held with the Baltimore District since 2013 outlining the Commonwealth's position on the adverse impacts to blue crab and finfish resources impacted by the overboard placement of dredged material at WTAPS.

As a result of these discussions, the Commonwealth, via the Secretary of Natural Resources (January 14, 2019 letter to Colonel John Litz), recommended that the placement of the material dredged from York Spit be restricted to the 2019 maintenance cycle only and that any future maintenance include a thorough evaluation of alternative options that include beneficial use opportunities as well as disposal outside the Chesapeake Bay. For the next maintenance cycle (2019), VMRC and VIMS recommended moving the placement to the north, to the WTAPSNE site in order to reduce impacts on blue crabs and that this placement be restricted to Cells 4 and 5 only.

3(b)(iii) Virginia Institute of Marine Science. VIMS has been involved with this issue since early 2014 and has been actively engaged in discussion, study and collaboration with the involved parties regarding the environmental effects of overboard spoil

placement at WTAPS, alternatives to reduce adverse effects, and future dredge spoil management in the waters of the Commonwealth. The DEA addresses some of the environmental concerns that emerged during this process and directly incorporates the recommendations of VIMS and the VMRC to place dredge spoil in a deepwater area immediately north of WTAPS (delineated as WTAPSNE).

VIMS data on overwintering blue crab distribution patterns and spoil depth effects on blue crab mortality provides justification for eliminating dredge spoil placement at WTAPS. Winter survey data from 2009-2018 show that WTAPSNE is not devoid of overwintering crabs, but it contains consistently lower densities than WTAPS. A recent publication and study (Saluta *et al.*, 2019) shows that 10 centimeters (3.9 inches) of dredge spoil deposition depths result in high mortalities of mature female crabs, while smaller mature females suffer substantial mortality and sublethal effects at even lower levels of dredge spoil deposition (as shallow as 2.5 centimeters (1 inch) of sediment). These data demonstrate the direct threats to Virginia blue crab resources from overboard dredge spoil placement upon state-owned subaqueous bottoms, and it should be understood that adverse effects (both temporary and longer term) also occur to other important Bay species. VIMS is confident that the use of WTAPSNE as an alternative to WTAPS will reduce adverse environmental impacts to critical Bay resources; most importantly, overwintering female blue crabs.

During prior coordination efforts, VIMS had the understanding that WTAPSNE was an interim environmentally-advantageous strategy. The DEA addresses some beneficial use alternatives, yet all are dismissed and accompanied by statements that none will be retained for further assessment.

3(c) VMRC Finding. Given the project's potential for adverse impacts to marine resources in the Commonwealth, use of WTAPSNE beyond the 2019 maintenance cycle is viewed by the Commission as inconsistent with the fisheries management enforceable policy that is part of Virginia's Coastal Zone Management Program.

3(d) Agency Recommendations.

3(d)(i) VMRC. As stated above, suitable dredge material must be recognized as a resource for potential beneficial projects throughout the Commonwealth. Furthermore, the ongoing practice to pursue overboard placement in the Commonwealth of Virginia as the “least costly, environmentally acceptable alternative” needs to be reconsidered in light of potential adverse ecological impacts to the Chesapeake Bay and adverse economic impacts to the Commonwealth's tidal fisheries.

3(d)(ii) VIMS. VIMS encourages the pursuit of alternatives to overboard placement of dredge spoil within the Chesapeake Bay due to effects to local water quality and living resources. VIMS continues to advocate the need to rethink overboard disposal and establish beneficial use strategies in the Bay waters of the Commonwealth. In the interest of Chesapeake Bay living resources and water quality, VIMS recommends

continuing efforts to secure strategies for near-future beneficial use of dredge spoil.

Further reduction of likely adverse impacts could be achieved by modifying the planned placement of dredge spoil for the upcoming maintenance dredging of York Spit Channel from NE6 QTR1 (abutting the northern boundary of WTAPS) to deeper areas a short distance north within WTAPSNE, such as the southwestern areas of NE5 or NE4 (EA Figure 4). VIMS and VMRC identified this area due to its depth relative to surrounding Bay bottoms and the understanding that these deeper waters are less favorable to female blue crabs as overwintering grounds. VIMS recommends these alternative placement areas as a strategy to minimize likely adverse impacts to overwintering blue crabs to the maximum possible extent.

3(e) VMRC Requirement. For consistency in the 2019 maintenance cycle, overboard placement must be limited to Cells 4 and 5 at WTAPSNE given the deeper waters present.

Unless the 1981 Agreement is maintained or amended for future maintenance cycles, any potential future use of WTAPSNE beyond the 2019 maintenance cycle may only be authorized by the Commission by subaqueous permit provided the Port of Maryland and the Baltimore District demonstrate that significant progress has been achieved in the evaluation of beneficial use alternatives. Should significant progress not be demonstrated, consistency may only be achieved by eliminating the overboard placement of dredge spoil in the Virginia portion of the Chesapeake Bay.

3(f) CZMA Federal Consistency. Further coordination with VMRC is required in order for the project to be considered consistent to the maximum extent practicable with the fisheries management enforceable policy of the Virginia CZM Program (see **Federal Consistency Conditional Concurrence**, page 11).

4. Air Pollution Control. According to the DEA (page 43), minor, short-term impacts to air quality may result from the transport of dredged material to the placement site. No long-term effects are anticipated. The FCD (page 4) states that Mathews County, the closest county to the proposed action and the neighboring counties of Gloucester, York, and Northampton are in attainment with the six principal criteria pollutants of the National Ambient Air Quality Standards. No new stationary sources will be created by this project.

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. 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 projects are:

- Open burning: 9 VAC 5-130 *et seq.*
- Fugitive dust control: 9 VAC 5-50-60 *et seq.*
- Permits for fuel-burning equipment: 9 VAC 5-80-1100 *et seq.*

4(b) Agency Findings. According to the DEQ Air Division, the project site is located in a designated ozone attainment area.

4(c) Fugitive Dust Requirements. During project operations, fugitive dust must be kept to a minimum by using control methods outlined in 9 VAC 5-50-60 *et seq.* of the *Regulations for the Control and Abatement of Air Pollution*. These precautions include, but are not limited to, the following:

- Use, where possible, of water or chemicals for dust control;
- Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials; and
- Covering of open equipment for conveying materials.

4(d) CZMA Federal Consistency. The project is consistent with the air pollution control enforceable policy of the Virginia CZM Program, provided adherence to the above requirements.

5. Historic and Archeological Resources. The DEA (page 44) states that a Programmatic Agreement is being developed in consultation with DHR to avoid any adverse effects to historic resources.

5(a) Agency Jurisdiction. The Department of Historic Resources (DHR) conducts reviews of projects to determine their effect on historic structures or cultural resources under its jurisdiction. DHR, as the designated State's Historic Preservation Office, ensures that federal actions comply with Section 106 of the National Historic Preservation Act of 1962 (NHPA), as amended, and its implementing regulation at 36 CFR Part 800. The NHPA 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. Section 106 also applies if there are any federal involvements, such as licenses, permits, approvals or funding.

5(b) Agency Findings. Pursuant to Section 106 of the National Historic Preservation Act, DHR has been in direct consultation with the Corps regarding this project and the parties have reached consensus that the Wormley Creek Federal Navigation project will have no adverse effect on historic resources. DHR has no further comment at this time.

5(c) Agency Requirement. Continue to 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.

FEDERAL CONSISTENCY UNDER THE COASTAL ZONE MANAGEMENT ACT

Pursuant to the Coastal Zone Management Act of 1972 (§ 1456(c)), as amended, and the federal consistency regulations implementing the CZMA (15 CFR Part 930, Subpart C, § 930.30 *et seq.*), federal actions that can have reasonably foreseeable effects on Virginia's coastal uses or resources must be conducted in a manner which is consistent, to the maximum extent practicable, 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, the federal agency must obtain all the applicable permits and approvals listed under the enforceable policies of the Virginia CZM Program prior to commencing the project.

Federal Consistency Public Participation

In accordance with 15 CFR § 930.2, public notice of the proposed action was published in the OEIR Program Newsletter and on DEQ's web site from July 30, 2019 to August 23, 2019. No public comments were received in response to the notice.

Federal Consistency Documentation

A Federal Consistency Determination for the proposed Wolf Trap Alternate Open Water Placement Site Northern Extension project was submitted with the DEA. The document provided an analysis of the project's impact on the applicable enforceable policies. According to the FCD, the project will be consistent to the maximum extent practicable with each of the enforceable policies and will have no significant impact on Virginia's coastal zone.

The FCD states that the proposed activity will have no effect on the following enforceable policies of the Coastal Zone Management Program: wetlands management, dunes management, non-point source pollution control, coastal lands management, and shoreline sanitation.

Analysis of Enforceable Policies

The applicable enforceable policies (including fisheries management, subaqueous lands management, wetlands management and air pollution control) including jurisdictional agency comments, recommendations, and requirements are discussed above in the

“Environmental Impacts and Mitigation” section of this document.

Federal Consistency Conditional Concurrence

Based on our review of the FCD and the comments submitted by agencies administering the enforceable policies of the CZM Program, DEQ **conditionally concurs** that the proposal is consistent with the CZM Program provided all applicable permits and approvals of the enforceable policies of the Virginia CZM Program and conditions outlined below are met. VMRC has raised concerns related to the consistency of the project with the fisheries management and subaqueous lands management enforceable policies of the Virginia CZM Program beyond the 2019 dredge and placement cycle. Unless the 1981 Agreement between Virginia and Maryland is maintained or amended for future maintenance cycles, any potential future use of WTAPSNE beyond the 2019 maintenance cycle may only be authorized by the Commission by subaqueous permit. Should significant progress not be demonstrated, consistency may only be achieved by eliminating the overboard placement of dredge spoil in the Virginia portion of the Chesapeake Bay.

Other state approvals which may apply to this project are not included in this consistency concurrence. Therefore, the Corps must ensure that this project is operated in accordance with all applicable federal, state and local laws and regulations. In addition, the Corps is encouraged to consider the potential project impacts on the Advisory Polices of the Virginia CZM Program (<https://www.deq.virginia.gov/Programs/EnvironmentalImpactReview/FederalConsistencyReviews.aspx#advisory>).

Conditions of Concurrence with the FCD

The conditions of the Commonwealth’s concurrence include the following authorizations under the Virginia CZM Program which will be required for the use of WTAPSNE beyond the 2019 maintenance cycle:

- a permit issued by VMRC for encroachments on or over state-owned subaqueous beds authorized under § 28.2-1200 *et seq.* of the Virginia Code unless the 1981 Agreement is maintained or amended for future maintenance cycles .

In accordance with the *Federal Consistency Regulations* 15 CFR Part 930, section 930.4, this conditional concurrence is based on the Corps obtaining necessary authorizations prior to initiating project activities. If the requirements of section 930.4, sub-paragraphs (a)(1) through (a)(3) are not met, this conditional concurrence becomes an objection under 15 CFR Part 930, section 930.43.

REGULATORY AND COORDINATION NEEDS

1. Subaqueous Lands. Coordinate with VMRC (Randy Owen, 757-247-2251) to address its concerns and recommendations regarding adverse impacts to subaqueous

lands. The Corps must obtain a submerged lands permit for the use of WTAPSNE beyond the 2019 maintenance cycle and should coordinate with VMRC to meet this requirement.

2. Fisheries Resources. Coordinate with VMRC (Randy Owen, 757-247-2251) regarding the proposed placement of material in the 2019 maintenance cycle being limited to Cells 4 and 5 at WTAPSNE given the deeper waters present.

3. Air Pollution Control. This project is subject to air quality regulations administered by the Department of Environmental Quality. The state air pollution regulations that may apply this project are:

- fugitive dust and emissions control (9 VAC 5-50-60 *et seq.*)

For additional information and coordination, contact DEQ-TRO (757-518-2000).

CONCLUSION

Thank you for the opportunity to review and respond to the Draft Environmental Assessment and Federal Consistency Determination for the Wolf Trap Alternate Open Water Placement Site Northern Extension project. 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 Rayfield, Program Manager
Environmental Impact Review

Ec: Amy Ewing, DGIF
Roger Kirchen, DHR
Tony Watkinson, VMRC
Randy Owen, VMRC
Emily Hein, VIMS
Kristina May, Corps



COMMONWEALTH of VIRGINIA

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

Matthew J. Strickler
Secretary of Natural Resources

Steven G. Bowman
Commissioner

August 21, 2019

Ms. Janine Howard
Department of Environmental Quality
Office of Environmental Impact Review
1111 East Main St.
Richmond, VA 23219

Re: Wolf Trap Alternate Open Water Placement Site
Northern Extension (WTAPSNE)
Project Number: DEQ #19-074F, DEA/Federal
Consistency Determination

Dear Ms. Howard:

This will respond to your agency's request for review of the above-referenced Draft Environmental Assessment (DEA) and Coastal Zone Management Act (CZMA) Consistency Determination, prepared by the U. S. Army Corps of Engineers, Baltimore District. Specifically, the project would establish an extension of the existing Wolf Trap Alternate Open Water Placement Site (WTAPS) to the north, increasing the size of the placement site by approximately 3,900 acres, herein referred to as the Wolf Trap Alternate Open Water Placement Site Northern Extension (WTAPSNE).

The WTAPSNE is located on submerged lands of the Commonwealth of Virginia. Use of the original site (WTAPS) was authorized by virtue of a 1981 agreement between Virginia and Maryland for material dredged from the Baltimore Harbor Channel within the Virginia portion of the Chesapeake Bay. That agreement stipulates that Virginia may designate alternate disposal sites such as the WTAPSNE.

As you may be aware, the Virginia Marine Resources Commission (VMRC) and the Virginia Institute of Marine Science (VIMS) have provided extensive scoping comments and participated in numerous meetings with the Baltimore District since 2013 outlining the Commonwealth's position on the adverse impacts to blue crab and finfish resources impacted by the overboard placement of dredged material at WTAPS. In light of these concerns, Virginia Secretary of Natural Resources Matthew Strickler advised in his January 14, 2019, letter to Colonel John Litz that the Commonwealth cannot support the future use of WTAPS. He recommended that the placement of the material dredged from York Spit be restricted to the 2019 maintenance cycle only and that any future maintenance include a thorough evaluation of alternative options that include beneficial use opportunities as well as disposal outside the Chesapeake Bay. For the next maintenance cycle, VMRC and VIMS had recommended moving the placement to the north, in what has been referred to now as the WTAPSNE in order to reduce impacts on blue crabs.

An Agency of the Natural Resources Secretariat
www.mrc.virginia.gov

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

Ms. Janine Howard
August 21, 2019
Page Two

Accordingly, given the project's potential for adverse impacts to marine resources in the Commonwealth, use of WTAPSNE beyond the 2019 maintenance cycle is viewed by the Commission as inconsistent with our submerged lands and fisheries management responsibilities that are part of Virginia's Coastal Zone Management Program. To meet consistency, we recommend that the 2019 maintenance cycle be limited to Cells 4 & 5 at WTAPSNE given the deeper waters present. Unless the 1981 Agreement is maintained or amended for future maintenance cycles, any potential future use of WTAPSNE beyond the 2019 maintenance cycle may only be authorized by the full Commission by subaqueous permit provided the Port of Maryland and the Baltimore District demonstrate that significant progress has been achieved in the evaluation of beneficial use alternatives.

Should significant progress not be demonstrated, consistency may only be achieved by eliminating the overboard placement of dredge spoil in the Virginia portion of the Chesapeake Bay.

In summary, we believe it is important that suitable dredge material must be recognized as a resource for potential beneficial projects throughout the Commonwealth. Furthermore, the ongoing practice to pursue overboard placement in the Commonwealth of Virginia as the "least costly, environmentally acceptable alternative" needs to be reconsidered in light of potential adverse ecological impacts to the Chesapeake Bay and adverse economic impacts to the Commonwealth's tidal fisheries.

Should you have any questions regarding this letter, please contact me or Randy Owen of my staff at (757) 247-2251.

Sincerely,



Tony Watkinson
Chief, Habitat Management Division

The Honorable Matthew Strickler, Secretary of Natural Resources
Steven G. Bowman, Commissioner
Rob O'Reilly, Fisheries Management Division
Mark Luckenbach, Virginia Institute of Marine Science
Bettina Sullivan, Department of Environmental Quality
Dave O'Brien, NOAA, National Marine Fisheries Service



COMMONWEALTH of VIRGINIA

Office of the Governor

Matthew J. Strickler
Secretary of Natural Resources

January 14, 2019

Colonel John Litz
Department of the Army
Baltimore District, Corps of Engineers
2 Hopkins Plaza
Baltimore, MD 21201

Re: Overboard Disposal of Dredged Material In the Chesapeake Bay

Dear Colonel Litz:

This letter regards the Baltimore District's current and future proposed uses of the Wolf Trap Alternate Placement Site (WTAPS) and the Rappahannock Shoals Alternate Placement Site (RSAPS) for the overboard disposal of material generated from the maintenance dredging of the Virginia portion of the Baltimore Channel and from the anticipated widening of the Baltimore 50' Project Channel. I understand that you have scheduled a meeting between the Virginia Marine Resources Commission (VMRC) and the Baltimore District to discuss this matter and I have requested Commissioner Bowman provide this letter.

While a 1981 letter from Virginia to Maryland authorized temporary use of these sites, the letter clearly provides that the Commonwealth of Virginia may designate alternative disposal sites in the Chesapeake Bay. Because of the potential impacts to fishery resources, the Commonwealth cannot support any future use of WTAPS. The Commonwealth also has significant concern about the potential future use of RSAPS.

I am concerned that the Baltimore District has not considered an alternative placement option for the WTAPS identified by VMRC and the Virginia Institute of Marine Science (VIMS) for upcoming maintenance dredging of the York Spit Channel. I also am concerned that plans for the widening of the channel would utilize the same sites that were designated as a result of the 1981 letter without consideration of beneficial use options for future new dredge material and without consideration of the science or our current Governor's position on this issue.

The Commonwealth has stressed that the use of WTAPS threatens blue crab and multiple fish species identified by NOAA in its review of the Essential Fish Habitat assessment of WTAPS.

As an alternative, on behalf of the Commonwealth, I recommend that the Baltimore District limit the placement of the dredge material generated by the 2018 - 2019 maintenance dredging cycle at either alternative placement site previously identified by VMRC and VIMS. Further, that such

use of the alternative location in Virginia, if chosen, be restricted to the 2018 - 2019 cycle and that any future maintenance and proposed widening of this channel include a thorough evaluation of alternative options that include beneficial use opportunities as well as disposal outside the Chesapeake Bay.

Virginia stands ready to work with the Baltimore District to resolve this matter and to identify alternative dredge material placement options that focus on the beneficial uses and innovative reuse of dredge material.

Sincerely,



Matthew J. Strickler

cc: Steven G. Bowman, Commissioner, Virginia Marine Resources Commission
Ellen Bolen, Deputy Commissioner, Virginia Marine Resources Commission

August 8, 2019

Janine Howard
Office of Environmental Impact Review
Virginia Department of Environmental Quality
1111 E. Main Street
Richmond, VA 23219

Dear Ms. Howard:

The Virginia Institute of Marine Science (VIMS) has reviewed the July 2019 U.S. Army Corps of Engineers, Baltimore District's Draft Environmental Assessment (EA) for the Wolf Trap Alternate Open Water Placement Site Northern Extension (WTAPSNE) and offer the following comments. This assessment and response represents VIMS' most recent involvement in this issue which began in early 2014. Since that time VIMS personnel have been actively engaged in discussion, study, and collaboration with all involved parties regarding the environmental effects of overboard spoil placement at Wolf Trap Alternative Placement Site (WTAPS), alternatives to reduce adverse effects, and future dredge spoil management in the waters of the Commonwealth. This EA addresses some of the environmental concerns that emerged during this lengthy process and directly incorporates the recommendations of VIMS and the Virginia Marine Resources Commission (VMRC) to place dredge spoil in a deepwater area immediately north of WTAPS (delineated as WTAPSNE).

VIMS data on overwintering blue crab distribution patterns and spoil depth effects on blue crab mortality provides justification for eliminating dredge spoil placement at WTAPS. Winter Dredge Survey data from 2009-2018 show that although WTAPSNE is not devoid of overwintering crabs, it contains consistently lower densities than WTAPS. Also, Saluta *et al.* (2019) show that 10 centimeters (3.9 inches) of dredge spoil deposition depths result in high mortalities of mature female crabs, while smaller mature females suffer substantial mortality and sublethal effects at even lower levels of dredge spoil deposition (as shallow as 2.5 centimeters (1 inch) of sediment). These data demonstrate the direct threats to Virginia blue crab resources from overboard dredge spoil placement upon state-owned subaqueous bottoms, and it should be understood that adverse effects (both temporary and longer term) also occur to other important Bay species.

VIMS is confident that the use of WTAPSNE as an alternative to WTAPS will reduce adverse environmental impacts to critical Bay resources; most importantly, overwintering female blue crabs. However, we continue to encourage pursuit of alternatives to overboard placement of dredge spoil within Chesapeake Bay due to effects to local water quality and living resources. During our involvement with this issue there were consistent and clear messages regarding the need to rethink overboard disposal and establish beneficial use strategies in Bay waters of the Commonwealth, and VIMS had the understanding that WTAPSNE was an interim environmentally-advantageous strategy.

The EA addresses some beneficial use alternatives, yet all are dismissed and accompanied by statements that none will be retained for further assessment. In the interest of Chesapeake Bay living resources and water quality, we recommend continuing efforts to secure strategies for near-future beneficial use of dredge spoil.

Further reduction of likely adverse impacts could be achieved by modifying the planned placement of dredge spoil for the upcoming maintenance dredging of York Spit Channel from NE6 QTR1 (abutting the northern boundary of WTAPS) to deeper areas a short distance north within WTAPSNE, such as the southwestern areas of NE5 or NE4 (EA Figure 4). VIMS and VMRC identified this area due to its depth relative to surrounding Bay bottoms and the understanding that these deeper waters are less favorable to female blue crabs as overwintering grounds. We recommend these alternative placement areas as a strategy to minimize likely adverse impacts to overwintering blue crabs to the maximum possible extent.

Thank you for the opportunity to comment. Please contact me if you have questions or desire additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lyle Varnell', with a long, sweeping underline.

Lyle Varnell
Associate Director of Advisory Services

cc: Tony Watkinson, VMRC
David O'Brien, NOAA Fisheries

Reference

Saluta, G., G. Ralph, K. Knick, M. Seebo, and R. Lipcius. 2019. Lethal and sub-lethal effects of dredge spoil on overwintering mature female blue crabs: summary. Virginia Institute of Marine Science. 4 pp.



Howard, Janine <janine.howard@deq.virginia.gov>

Fwd: Wolf Trap, ACOE project

1 message

West, Kelley <kelley.west@deq.virginia.gov>
To: Janine Howard <janine.howard@deq.virginia.gov>

Tue, Aug 27, 2019 at 3:10 PM

I sent the project to VWP group and they don't have any comments for this project.

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

From: **Justin Brown** <justin.brown@deq.virginia.gov>
Date: Tue, Aug 27, 2019 at 12:55 PM
Subject: RE: Wolf Trap, ACOE project
To: Kelley West <kelley.west@deq.virginia.gov>

It doesn't look like DEQ VWP has a permit in these areas.

Justin Brown, PWD*Environmental Specialist*

Virginia Water Protection Program

Department of Environmental Quality | Piedmont Region

4949-A Cox Road | Glen Allen, VA 23060

P: (804) 527 - 5054 | F: (804) 527 - 5106 | E: Justin.Brown@deq.virginia.gov

www.deq.virginia.gov

From: West, Kelley <kelley.west@deq.virginia.gov>
Sent: Tuesday, August 27, 2019 8:52 AM
To: Justin Brown <justin.brown@deq.virginia.gov>
Subject: Re: Wolf Trap, ACOE project

so the project is located in the bay near matthews county, CO just wanted to know if VWP had any concerns about the project.

the fileshare link to the project is located here.

<https://www.deq.virginia.gov/fileshare/oeir/ACOE/Wolf%20Trap%20Alternate%20Open%20Water/>

On Mon, Aug 26, 2019 at 2:21 PM Justin Brown <justin.brown@deq.virginia.gov> wrote:

I don't recognize this project either. If you have a more exact location I can look to see if a permit has been issued.

Justin Brown, PWD*Environmental Specialist*

Virginia Water Protection Program

Department of Environmental Quality | Piedmont Region

4949-A Cox Road | Glen Allen, VA 23060

P: (804) 527 - 5054 | F: (804) 527 - 5106 | E: Justin.Brown@deq.virginia.govwww.deq.virginia.gov**From:** Jones, Bryan <bryan.jones@deq.virginia.gov>**Sent:** Friday, August 23, 2019 11:37 AM**To:** West, Kelley <kelley.west@deq.virginia.gov>**Cc:** Justin Brown <justin.brown@deq.virginia.gov>**Subject:** Re: Wolf Trap, ACOE project

I do not recognize this project. Justin has Matthews County, so he may have seen something on it for the placement site, but depending on how the project was proposed it could also be in TRO if the work in the York Spit Channel is considered part of York County.

Bryan Jones

Environmental Specialist

Virginia Water Protection Program

Department of Environmental Quality | Piedmont Region

4949-A Cox Road | Glen Allen, VA 23060

P: (804) 527-5074 | F: (804) 527-5106 | E: Bryan.Jones@deq.virginia.govwww.deq.virginia.gov

On Fri, Aug 23, 2019 at 11:06 AM West, Kelley <kelley.west@deq.virginia.gov> wrote:

Do either of you know anything about this project? I am doing an environmental assessment on it, I think the wolf trap site is in Matthews.

WOLF TRAP ALTERNATE OPEN WATER PLACEMENT SITE NORTHERN EXTENSION

The proposed action would establish an extension of WTAPS to the north, increasing the size of the placement site by approximately 3,900 acres, and is herein referred to as the "WTAPS Northern Extension" (WTAPSNE) (Figures 2-4). WTAPSNE would serve as an open water placement site for dredged material primarily from the York Spit Channel, but may also be used as a placement site for other dredging projects in the lower Chesapeake Bay pending evaluation. At this time, there are no plans to place dredged material from the York River Entrance Channel or the Wormley Creek Federal Navigation Project into WTAPSNE.

--

Kelley West
Environmental Planner
Department of Environmental Quality
[4949A Cox Road](#)
[Glen Allen, VA 23060](#)
804-527-5029

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Kelley West
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804-527-5029



Howard, Janine <janine.howard@deq.virginia.gov>

RE: EIR 19-074F_Wolf Trap Alternate Open Water Placement Site Northern Extension (WTAPSNE)

1 message

Jeffrey Hannah <jeffrey.hannah@deq.virginia.gov>

Thu, Sep 5, 2019 at 10:56 AM

To: Janine Howard <janine.howard@deq.virginia.gov>

Cc: Cindy Robinson <cindy.robinson@deq.virginia.gov>, Curtis Davey <curtis.davey@deq.virginia.gov>

Hi Janine –

Please find the following responses to your questions:

1. You are correct - the project will not require a modification to the 2013 permit, based on the 2015 federal navigation projects letter from David Paylor to the Corps.
2. Yes, the following statement is appropriate: *"If the project proceeds as proposed and the proponent complies with all CZM recommendations, then this satisfies our Section 401 certification requirements."*

Thank you for the follow-up!

Jeff

Jeffrey M. Hannah

Regional VWPP Program Manager
Virginia Water Protection Permit Program
Department of Environmental Quality
Tidewater Regional Office
5636 Southern Boulevard
Virginia Beach, Virginia 23462
(757) 518-2146

From: Howard, Janine <janine.howard@deq.virginia.gov>**Sent:** Tuesday, September 3, 2019 3:15 PM**To:** Curtis Davey <curtis.davey@deq.virginia.gov>; Jeffrey Hannah <jeffrey.hannah@deq.virginia.gov>**Cc:** Cindy Robinson <cindy.robinson@deq.virginia.gov>; Janine Howard <janine.howard@deq.virginia.gov>**Subject:** Fwd: EIR 19-074F_Wolf Trap Alternate Open Water Placement Site Northern Extension (WTAPSNE)

Good afternoon,

I have discovered that TRO was the correct region for this project. The project proposes to dispose of maintenance dredge spoils from the York Spit Channel which is part of the federally-maintained Baltimore Harbor and Channels 50-Foot Navigation project in the newly created Wolf Trap Alternate Open Water Placement Site- Northern Extension (WTAPSNE). TRO issued an individual VWP permit for the maintenance dredging of York Spit and disposal at Wolf Trap Alternate Open Water Placement Site (WTAPS) in 2013 (13-0593) and this permit is still active.

In the cover letter for this project the Corps indicated that they are looking for confirmation that the Water Quality Certification (WQC) pursuant to Section 401 of the CWA would be covered under the CZM process, and that a separate WQC request is not required.

I have two questions for TRO:

1. Would you confirm that this project will **not** require a modification of the 2013 permit even though the disposal site is proposed to move from WTAPS to WTAPSNE (the proposed action)? I have arrived at this conclusion based on the 2015 federal navigation projects letter from David Paylor to the Army Corps (attached) which states that, provided a FCD concurrence is obtained, federal navigation projects, including overboard disposal, will not require a VWP permit or permit fee including reissuance of any expired VWP permit.

2. Would you also confirm that the following statement is appropriate for this project?

"If the project proceeds as proposed and the proponent complies with all CZM recommendations, then this satisfies our Section 401 certification requirements."

This statement was developed in 2016 by CO VWP staff (Dave Davis) in follow-up to the 2015 letter and is supposed to be included in FCD reviews of federal navigation projects to address the Corps' concerns about obtaining their 401 certification.

I have placed the reference materials (FCD, cover letter and the 401 language emails) for this project on the T drive:

T:\EIR BRayfield\Wolf Trap Northern Extension

Thank you for your help!

Janine Howard
Environmental Impact Review Coordinator
Virginia Department of Environmental Quality
[1111 East Main Street, Suite 1400](#)

[Richmond, VA 23219](#)
804-698-4299

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR PROGRAM COORDINATION

ENVIRONMENTAL REVIEW COMMENTS APPLICABLE TO AIR QUALITY

TO: Janine L. Howard

DEQ - OEIR PROJECT NUMBER: **DEQ #19-074F**

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

X CONSISTENCY DETERMINATION

PROJECT TITLE: **Wolf Trap Alternate Open Water Placement Site Northern Extension**

PROJECT SPONSOR: **U.S. Army Corps of Engineers**

PROJECT LOCATION: **X OZONE ATTAINMENT AREA**

REGULATORY REQUIREMENTS MAY BE APPLICABLE TO: CONSTRUCTION
 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:



(Kotur S. Narasimhan)
Office of Air Data Analysis

DATE: July 25, 2019



Howard, Janine <janine.howard@deq.virginia.gov>

ESSLog# 39705_19-047F_WolfTrap_DGIF_AME20190827

1 message

Ewing, Amy <amy.ewing@dgif.virginia.gov>
To: Janine Howard <janine.howard@deq.virginia.gov>

Tue, Aug 27, 2019 at 12:26 PM

Janine,
As this proposed open water placement site expansion site is located in the Bay, we defer the consistency determination to VMRC.

Thanks, Amy



Amy Ewing

*Environmental Services Biologist
Manager, Fish and Wildlife Information Services*

P 804.367.2211

Virginia Department of Game & Inland Fisheries

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www.dgif.virginia.gov



Howard, Janine <janine.howard@deq.virginia.gov>

NEW PROJECT ACOE Wolf Trap Alternate Open Water Placement Site, DEQ #19-074F

1 message

Henderson, Samantha <samantha.henderson@dhr.virginia.gov>
To: Janine Howard <janine.howard@deq.virginia.gov>

Tue, Aug 27, 2019 at 9:43 AM

Dear Ms. Howard:

Thank you for requesting comments from the Department of Historic Resources (DHR) on this project. DHR has been in consultation with the US Army Corps of Engineers regarding this project. We request that the Corps continue to 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.

Regards,

--

Samantha J. Henderson
Project Review Archaeologist
Review and Compliance Division
Virginia Department of Historic Resources
[2801 Kensington Avenue | Richmond, VA 23221](https://www.dhr.virginia.gov/2801-Kensington-Avenue-Richmond-VA-23221)
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COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

October 8, 2019

U.S. Army Corps of Engineers- Baltimore District
ATTN: Kristina May, Biologist
Planning Division
2 Hopkins Plaza
Baltimore, MD 21201
Via Email: Kristina.k.may@usace.army.mil

RE: Amendment to Comments on the Draft Environmental Assessment and Federal Consistency Determination for the Wolf Trap Alternate Open Water Placement Site Northern Extension (WTAPSNE), U.S. Army Corps of Engineers, Virginia Waters of the Chesapeake Bay (DEQ 19-074F).

Dear Ms. May:

This letter provides notification of an amendment to the September 17, 2019 state response that the Virginia Department of Environmental Quality (DEQ) provided on the Wolf Trap Alternate Open Water Placement Site Northern Extension project. Sections 2(e) "VMRC Requirement" and 3(e) "VMRC Requirement" of the state response (attached) stated:

"For consistency in the 2019 maintenance cycle, overboard placement must be limited to Cells 4 and 5 at WTAPSNE given the deeper waters present."

In coordination with the Virginia Marine Resources Commission (Howard/Owen email, 10/8/19), the DEQ hereby notifies the U.S. Army Corps of Engineers that the comment to limit overboard placement in the 2019 maintenance cycle to Cells 4 and 5 at WTAPSNE is a recommendation, not a requirement for federal consistency with the subaqueous lands management and fisheries management enforceable policies of the Virginia Coastal Zone Management Program.

Please contact VMRC (Randy Owen, 757-247-2251) with questions regarding this recommendation.

Wolf Trap Alternate Open Water Placement Site Northern Extension
DEA and FCD, 19-074F

Thank you for the opportunity to review and respond to the Draft Environmental Assessment and Federal Consistency Determination for the Wolf Trap Alternate Open Water Placement Site Northern Extension project.

Sincerely,

A handwritten signature in black ink that reads "Bettina Rayfield". The signature is fluid and cursive, with the first name "Bettina" and last name "Rayfield" clearly distinguishable.

Bettina Rayfield, Program Manager
Environmental Impact Review

Ec: Tony Watkinson, VMRC
Randy Owen, VMRC
Kristina May, Corps
Daniel Bierly, Corps



Howard, Janine <janine.howard@deq.virginia.gov>

Re: 19-074F Wolf Trap Alternate Open Water Placement Site- Northern Extension

1 message

Owen, Randy <randy.owen@mrc.virginia.gov>
To: "Howard, Janine" <janine.howard@deq.virginia.gov>
Cc: Tony Watkinson <tony.watkinson@mrc.virginia.gov>

Tue, Oct 8, 2019 at 2:04 PM

Yes it is a recommendation.

On Tue, Oct 8, 2019 at 8:01 PM Howard, Janine <janine.howard@deq.virginia.gov> wrote:

Hi Randy,

In follow-up to the telephone conversation we had regarding the Wolf Trap project and the VMRC comment that the Corps limit overboard placement to cells 4 and 5 in the 2019 maintenance cycle, would you please confirm that VMRC is satisfied with this as a recommendation, not a requirement for federal consistency?

In requirements sections 2(e) and 3(e) of the attached letter we stated:
"For consistency in the 2019 maintenance cycle, overboard placement must be limited to Cells 4 and 5 at WTAPSNE given the deeper waters present."

Based on our earlier telephone call I am drafting a letter to the Corps notifying them of the change from requirement to recommendation. Please confirm that you concur.

Thank you,

Janine Howard
Environmental Impact Review Coordinator
Virginia Department of Environmental Quality
[1111 East Main Street, Suite 1400](#)
[Richmond, VA 23219](#)
804-698-4299

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Randal D. Owen

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