COMMONWEALTH OF VIRGINIA

VIRGINIA MARINE RESOURCES COMMISSION (VMRC)

GENERAL PERMIT VGP #1

VMRC GENERAL PERMIT FOR PROJECTS WHICH CONFORM TO CERTAIN CRITERIA AND ARE UNDERTAKEN BY THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) IN, ON OR OVER STATE-OWNED SUBAQUEOUS LANDS ANYWHERE WITHIN THE COMMONWEALTH.

1. AUTHORITY - EFFECTIVE DATE

(a) This General Permit is promulgated pursuant to the authority contained in §28.2-103 and §28.2-1203 of the Code of Virginia, as amended.

(b) The effective date of this General Permit is August 24, 1982, and reauthorized and amended on May 28, 1985 and December 21, 1993.

2. DISCUSSION

(a) The U. S. Army Corps of Engineers has granted a Nationwide General Permit for minor projects in waters of the United States.

(b) The Norfolk District U. S. Army Corps of Engineers has granted a General Permit, effective September 2, 1993, for VDOT projects in the waters of the Commonwealth which meet certain rigid criteria (93-LOP-1).

(c) Projects which do not qualify under (a) and (b) above will be processed in accordance with established joint State/Federal permit procedures.

(d) Formal monthly State/Federal inter-agency coordination procedures have been established and practiced over the past several years at which each VDOT project is subjected to rigorous review and routinely modified to satisfy agency concerns.

(e) All VDOT projects are routinely given wide public notice in conformance with established State/Federal highway project requirements and public hearings are held by VDOT on all significant proposals.

(f) VDOT is exempt by statute from all fees and royalties.

3. AUTHORIZATION/CONDITIONS

All proposal by VDOT to encroach in, on or over State-owned subaqueous land which qualify for a Nationwide Permit, Paragraph 2(a) or a U.S. Army Corps of Engineers, Norfolk District General Permit, Paragraph 2(b), above are hereby permitted subject to the following standard conditions:

a) Any proposed deviation from the pre-approved plan must be formally recoordinated and approved prior to undertaking the work.

b) Permittee shall notify the Commission when the project has been completed.

c) This permit grants no authority to the Permittee to encroach upon the property rights, including riparian rights, of others.

d) The duly authorized agents of the Commission shall have the right to enter upon the premises at reasonable times, for the purpose of inspecting the work being done pursuant to this permit.

e) The Permittee shall comply with the water quality standards as established by the Virginia Department of Environmental Quality and all other applicable laws, ordinances, rules and regulations affecting the conduct of the project. The granting of this permit shall not relieve the Permittee of the responsibility of obtaining any and all other permits or required authorizations for the project.

f) This permit shall not affect or interfere with the right vouchsafed to the people of Virginia concerning fishing, fowling and the catching of and taking of oysters and other shellfish in and from the bottom of areas and waters not included within the terms of this permit.

g) The Permittee shall, to the greatest extent practicable, minimize the adverse effects of the project upon adjacent properties and wetlands and upon the natural resources of the Commonwealth.

h) This permit may be revoked at any time by the Commission upon the failure of the Permittee to comply with any of the terms and conditions hereof or at the will of the General Assembly of Virginia.

i) This permit is subject to any lease of oyster planting ground in effect on the date of this permit. Nothing in this permit shall be construed as allowing the Permittee to encroach on any lease without the consent of the leaseholder. The Permittee shall be liable for any damages to such lease.

j) The issuance of this permit does not confer upon the Permittee any interest or title to beds of the waters.

k) Specifically prohibited is the sale by subcontractors, without Commission approval, of material removed from State-owned bottoms.

l) All structures authorized by this permit which are not maintained in good repair shall be completely removed from State-owned bottom within three(3) months after notification by the Commission.

m) This permit authorizes no claim to archaeological artifacts which may be encountered during the course of construction. If archaeological remains are encountered, however, the Permittee agrees to notify the Commission, who will in turn, notify the Virginia Department of Historic Resources. The Permittee further agrees to cooperate with agencies of the Commonwealth in the recovery of archaeological remains if deemed necessary.

4. PROCEDURES

The Chief, Habitat Management Division, will administer this General Permit and establish procedures to assure:

(a) That all projects authorized by this permit satisfy either the Nationwide Permit established by the Department of the Army Regulations or General Permit Criteria established by the Norfolk District U. S. Army Corps of Engineers in 93-LOP-1.

(b) Minimum cumulative impact on the marine environment.

(c) Adequate opportunity for public review.

(d) That a record is maintained on all projects authorized by this permit.

Such records will include:

1) The name, address, and telephone number of the Highway District who wishes to perform the work.

2) The location of the project, including waterway, county/city and route number of roadway.

3) Detailed drawings of the project including a plan view and section view with the mean high and mean low water lines or the ordinary high water mark, whichever is appropriate.

4) The amount of dredging and fill. If dredging is involved, the type of dredge, hydraulic or dragline, the location of disposal sites and the type of erosion and sediment controls if necessary.

5) When projects involve the destruction of wetlands, the type of species involved, the amount to be disturbed, and any plan for compensation, or mitigation.

6) A copy of the environmental assessment or Environmental Impact Statement prepared by the Virginia Department of Transportation.

(e) If any objections are raised by either individuals or agencies which cannot be resolved at the monthly project coordination meeting, that project must then be processed for an individual permit to encroach in, on or over State-owned bottomlands.

(f) Those project located within a non-tidal drainage basin of less than 5 square miles can be undertaken without the review process outlined in paragraph 2(d) above unless the project involves one or more of the following resources:

1) A designated or proposed scenic river as determined by the Virginia Department of Conservation and Recreation (DCR).

2) A natural trout stream as designated by the Virginia Department of Game and Inland Fisheries (DGIF).

3) A public water supply as determined by the Virginia Department of Health and/or the Department of Environmental Quality - Water Division.

4) A habitat or critical area designated for endangered and/or threatened species as listed on the Commonwealth of Virginia's "Official List."

5) Any spawning area designated by the Virginia Institute of Marine Science and/or the Virginia Department of Game and Inland Fisheries.

6) A historical or archaeological site as determined by the Virginia Department of Historic Resources.

7) A total area of open water, greater than one (1) acre.

(g) The Commission may conduct periodic inspections to evaluate compliance with applicable environmental management laws and regulations, and sediment and erosion control practices specified by DCR - Division of Soil and Water.

(h) The results of any inspections conducted may be utilized by the Commission to assess the advisability and continuation of the provisions of this VGP #1. Such continuation may be on a highway district basis. The Commission will advise the VDOT in writing, if a highway district is not in compliance and may suspend this VGP #1 for that district until evidence of compliance satisfactory to the Commission is achieved.

(i) Where emergency conditions exist in time of flood or other catastrophic event or a declared disaster by the Governor's Office, the VDOT, after consultation with the

Commission, will take whatever actions it deems appropriate to protect life and property of both private citizens and the transportation system of the Commonwealth. The emergency actions taken will be reported in writing by the VDOT to the Commission within three months of the completion of such action.

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This is to certify that this permit was approved by the Commission at its regularly scheduled meeting on August 24, 1982, and reauthorized with minor administrative corrections at its regularly scheduled meeting on May 28, 1985, and December 21, 1993, and is recorded in the official minutes of those meetings.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

By: William A. Pruitt
William A. Pruitt
Commissioner

Subscribed and sworn to before me this 14th day March 1993.

My Commission expires June 30, 1997.

Virginia S. Chappell
Virginia S. Chappell
Notary Public