ADDENDUM # 2

Beaver Creek Reservoir Spillway Improvements Project
City of Martinsville

Martinsville, VA
June 9, 2020
ADDENDUM NO. 2

ISSUED June 9, 2020

NOTE: All items in this addendum supersede the issued for bidding plans and specifications. The following changes/clarifications have been made to the project:

General

• Nationwide 3 permit from the US Army Corps of Engineers for installation of the cofferdam and dewatering is attached for reference. The Contractor must use filter bags on the discharge when dewatering the area behind the cofferdam.

Bid Form

Replace the bid form in its entirety with the revised version attached. The following additions have been made to the bid form:

• Add Line #32 – Concrete Spall Repair – Provide all equipment, materials and labor to perform concrete spall repair as defined on sheet S-001. Unit: SF. Measurement: area of completed spall repair.
• Add Line #33 – Crack Repair – Provide all equipment, materials and labor to repair cracks in wall and floor panels as described and specified on sheet S-001. Unit: LF. Measurement: horizontal length of crack repaired.
• Add Line #34 – Low Strength Cement Grout (filling of voids over 12”) – Provide all equipment, materials and labor to install low strength cement grout material in voids exceed 12” below the panel prior to injecting polyurethane grout. Unit: CY. Measurement: volume of cement material installed.
• Add Line #35 – Siphon Demolition – At the conclusion of the project, Contractor shall demolish and dispose of all above ground piping to a distance to where the in-ground pipe as shown in the project profile (Sheet C-104) has two feet of cover. At each junction where this occurs (three locations; stations 2+19, 6+90, 7+40) a blind flange shall be provided to seal the ends of the open pipe. All manholes, including the air release valve manhole, shall be demolished to a depth of 2 to 4 feet below grade and a solid manhole top placed on each, and grade conditions restored to original ground elevation. Siphon vacuum priming system shall be demolished leaving only the vacuum priming valve in place in manhole SAN ARV. All other siphon piping components shall remain in place. A siphon demolition line item has been added to the bid form for this work. (Refer to Section 012200 3.1.b.16 where work related to the plunge pool also includes demolition of the plunge pool at the conclusion of work. Rip rap from the plunge pool may be used as re-armament at the spillway crest inlet area.) Unit: lump sum.

Contractor Questions

1. On average, how long will it take the siphon to lower the lake level one foot?

   Response: 3 days when operating siphon at the recommended ½ max flow capacity.

2. What is the surface area of the lake at full pond?

   Response: 175 acres.
3. What is the average daily inflow into the lake?
   
   **Response:** 3 cfs.

4. Will weather days be given for each rain event that causes the lake to overflow the cofferdam?
   
   **Response:** Yes.

5. After visiting the site, it appears the existing riprap extends out to or beyond the location you have specified a cofferdam be installed. Will it be allowed to remove the riprap prior to the cofferdam being installed? Sediment could be contained with the use of a turbidity curtain. Any option for a cofferdam is going to be tough to install and/or function properly when placed on the riprap.
   
   **Response:** Yes, Contractor can move riprap prior to installation of the cofferdam but shall use this rip rap or new rip rap to re-armor the bottom upon removal of the coffer dam.

6. Is a sheet pile cofferdam permissible as an equal to the Port-A-Dam?
   
   **Response:** Yes. The Contractor must submit the cofferdam plan sealed by a professional engineer for review and approval by the Engineer during shop drawing review.

7. Will the City provide a location where 10’ x 40’ sectional barges can be placed and assembled on the reservoir and equipment can be loaded /positioned onto the barge?
   
   **Response:** Contractor is allowed to use the partially constructed access way just east of the reservoir attendant building and/or the boat ramp and parking area located northeast of the spillway. Contractor shall be responsible for protecting and returning all used facilities to original or better condition.

8. Bid Item 30 – Resurface Concrete Floor:
   
   a. Can you clarify the locations for this work?
      
      **Response:** The concrete floor resurfacing will be located where the flow path has eroded the concrete. The area to be resurfaced is approximately ¼ the width of the spillway along the entire south wall.

   b. Can you clarify the product number/ color of the topcoat?
      
      **Response:** A topcoat is not necessary if cementitious product provided meets specification requirements.

   c. Is the topcoat only placed in areas repaired with the Tnemec 217?
      
      **Response:** Tnemec 217 will not require a topcoat.

   d. The specifications reference Sherwin Williams and Pittsburg Paint. Are they compatible with the Tnemec? If not, what repair mortar is specified.
      
      **Response:** The manufacturers listed are those that may have comparable products. If an equal product is preferred, it can be submitted for approval during shop drawing review.
e. Seeping water is noted at STA 4+00 but does not appear to be addressed by the underdrain or grouting. Is the floor in this area to be resurfaced? If so, how do we address the water?

Response: The “seeping water” note at STA 4+00 is a survey note. This is located within the stilling pool area. The cutoff wall, subsurface grouting and underdrains will address this concern. The Contractor will not be providing improvements to the stilling pool.

9. The plans reference use of Sikatop -123 Plus in the Spall Repair detail Sheet S-001, but the plans state “Location and Extent is Generic”? Can you clarify the areas/locations and method of payment?

Response: The majority of spall repair can be assumed to be located on the floor of the spillway. However, spall repair may also be present on the walls of the spillway. A unit price line item on the bid form has been added to include a price for 500 SF of spall repair.


Response: A unit price line item on the bid form has been added to include 400 LF of crack repair.

11. Please reference plan sheet C-301 – Grouting Plan, Note 7 – “Where voids beneath existing spillway floors and walls exceed 12 inches in thickness, pre-treat the void by performing an initial backfilling of the void with controlled low strength material or cement grout prior to polyurethane injection. Do not inject bulk polyurethane resin into large aperture voids.” What pay item covers the controlled low strength material referenced in the note above?

Response: A unit price line item has been added on the bid form for 75 cubic yards of low strength cement grout.

12. Please reference plan sheet C-401 – Details, Detail 3 – Vacuum Priming System Detail and Specification Section 331113 – Yard Piping, Part 2.7 – Relief Valves, Air Release / Vacuum Priming Valves. The plan sheet shows a 2” Air Release / Vacuum Priming Valve (based on the pipe size from the siphon) and the specification section lists a 4” Air / Vacuum Valve. What size should the Air Release / Vacuum Valve be?

Response: Provide a 2” Air Release / Vacuum Priming Valve as shown in the drawings.

13. Please reference plan sheet C-103 – Site Grading & Layout and C-104 – Siphon Profile. Sheet C-103 shows the transition from 24” DI to 24” HDPE at station 2+40 and the profile shows the transition at station 3+90. At what station along the alignment of the Siphon Pipe will the transition from DI to HDPE take place?

Response: Transition from DIP to HDPE takes place at STA 3+90 as shown on the profile. The quantities shown in the bid form are correct.
14. Please reference plan sheet C-401, Detail 4 – Emergency Cover. Where / how will this cover be used?

   Response: The emergency cover is to be used when there is a construction opening in the floor or wall of the spillway requiring protection prior the reservoir overtopping the spillway (Reference 011050 Work Restrictions). Provide price for this in Alternate #1.

15. Please reference plan sheet C-402, “Knife Gate Valve Box Detail” and “Vacuum Priming Valve Detail”.
   a. Will the tops of these structures be grated or solid covers / hatches?

      Response: Solid or open grate is acceptable. For open grate, insulation shall be provided during cold weather to prevent freezing of the vacuum priming valve.

   b. Where are these structures shown on the plans? Where will they be installed?

      Response: Ref. plan view on sheet C-103 and profile on sheet C-104.

16. Please reference plan sheet C-401 – Details, Detail 3 – Vacuum Priming System Detail. Who is responsible for providing the “110V Power Supply from Breaker Panel in City Reservoir Attendant Station Building”? What pay item would this be covered under? There aren’t any electrical plans, details or specification sections as part of these documents. Should we assume this is by others?

   Response: The intent is for the power supply to come from the attendant station on site. Contractor is responsible for extending power from the building to the vacuum priming system.

Attachments: Revised Bid Form, NWP3 Permit, Current Bidders List

END OF ADDENDUM NO. 2
BID FORM

City of Martinsville
Beaver Creek Reservoir Spillway Improvements

Revised Addendum #2

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</tbody>
</table>
ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

*By FedEx, UPS or hand delivered:*

*City of Martinsville*
*Attn: Purchasing Manager*
*Central Warehouse*
*990 Fishel Street*
*Martinsville, VA 24112-3248*

*Or by postal mail:*

*City of Martinsville*
*Attn: Purchasing Manager*
*P. O. Box 1112*
*Martinsville, VA 24114-1112*

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 – BIDDER’S ACKNOWLEDGEMENTS

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

2.02 Bidder accepts all of the terms and conditions of the Virginia Clean Water Revolving Loan Fund Contract Forms.

ARTICLE 3 – BIDDER’S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged:

<table>
<thead>
<tr>
<th>Addendum No.</th>
<th>Addendum Date</th>
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<tbody>
<tr>
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</tbody>
</table>

B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
C. Bidder is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Bidder has carefully studied all: (1) Drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in General Conditions Section 4.02 as containing reliable "technical data."

E. Bidder has considered the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder’s safety precautions and programs.

F. Based on the information and observations referred to in Paragraph 3.01.E above, Bidder does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.

G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.

H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.

I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

ARTICLE 4 – BIDDER’S CERTIFICATION

4.01 Bidder certifies that:

A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;

B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;

C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and

D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
1. “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;

2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and

4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following Bid Schedule:

<table>
<thead>
<tr>
<th>L.I.</th>
<th>Description</th>
<th>Unit</th>
<th>Est. Qty.</th>
<th>Unit Price</th>
<th>Total Price</th>
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<td>1</td>
<td>Access Improvements Across Stilling Pool (Bottom of Spillway)</td>
<td>LS</td>
<td>1</td>
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<td>2</td>
<td>Access Drive Clearing and Tree Hauling (Top of Spillway)</td>
<td>LS</td>
<td>1</td>
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<td>3</td>
<td>Access Drive Grading and E&amp;S (Top of Spillway)</td>
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<tr>
<td>4</td>
<td>Stone for 12' Access Drive (Top of Spillway)</td>
<td>CY</td>
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<td>5</td>
<td>Stone for 12' Construction Entrance (Bottom of Spillway)</td>
<td>CY</td>
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Siphon

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<tr>
<td>6</td>
<td>Welded Steel Siphon Intake</td>
<td>EA</td>
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<td>7</td>
<td>24&quot; Ductile Iron Siphon Pipe &amp; Restrained Fittings</td>
<td>LF</td>
<td>375</td>
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<tr>
<td>8</td>
<td>Move and Install Existing 24&quot; HDPE Siphon Pipe On Site</td>
<td>LF</td>
<td>360</td>
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<td>9</td>
<td>30&quot; Steel Casing Pipe (for HDPE carrier pipe)</td>
<td>LF</td>
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<td>10</td>
<td>Concrete Restraining Collar</td>
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<td>11</td>
<td>Vacuum Priming System</td>
<td>EA</td>
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<tr>
<td>12</td>
<td>Combination Air/Vacuum Release Valve</td>
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<td>13</td>
<td>Reinstall Existing 24&quot; Knife Gate Valve</td>
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<td>Description</td>
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<td>14</td>
<td>24&quot; Knife Gate Valve</td>
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<td>15</td>
<td>24&quot; x 4&quot; Tee and 4&quot; Ball Valve w/ Quick Connect</td>
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<td>16</td>
<td>Plunge Pool with Level Spreader</td>
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<td>17</td>
<td>Start-up and Maintenance of Siphon (lower lake level 4 ft)</td>
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<tr>
<td></td>
<td><strong>Cutoff Wall</strong></td>
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<td>18</td>
<td>Cofferdam @ Spillway Crest</td>
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<td>19</td>
<td>Subgrade Preparation, Forming &amp; Reinforcing for Cutoff Wall</td>
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<td>20</td>
<td>Concrete Cutoff Wall</td>
<td>CY</td>
<td>303</td>
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<tr>
<td></td>
<td><strong>Grouting and Concrete Repairs</strong></td>
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<tr>
<td>21</td>
<td>Mobilize Polyurethane Grout and Grouting Equipment</td>
<td>LS</td>
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<tr>
<td>22</td>
<td>1/2 inch Diameter Grout Injection Holes, Drilled and Patched</td>
<td>EA</td>
<td>1450</td>
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<td>23</td>
<td>Polyurethane Injection Grout, in-place volume</td>
<td>CF</td>
<td>5550</td>
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<td>24</td>
<td>Remove and Provide New Concrete Floor Panels (11B, 12A, 12B)</td>
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<td>25</td>
<td>Cut and Remove Wall Panel 5B Section for Large Void Inspection and Remove Local Grouted Rip-Rap</td>
<td>LS</td>
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<td>26</td>
<td>Shoring, Remove Unsuitable Soils and Provide Suitable Soils at 5B Large Void</td>
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<td>Concrete Wall Panel Repair 5B</td>
<td>LS</td>
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<td>28</td>
<td>5' Wall Joint Repair (Ref. C-302)</td>
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<tr>
<td>29</td>
<td>Concrete Curb Along South Wall</td>
<td>CY</td>
<td>25</td>
<td></td>
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<tr>
<td>30</td>
<td>Resurface Concrete Floor (flow path)</td>
<td>SY</td>
<td>1067</td>
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<tr>
<td>31</td>
<td>Concrete Cap of Rip-rap Above South Wall (broom finished)</td>
<td>CY</td>
<td>63</td>
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<tr>
<td>32</td>
<td>Concrete Spall Repair</td>
<td>SF</td>
<td>500</td>
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<tr>
<td>33</td>
<td>Crack Repair (Ref. Sheet S-001)</td>
<td>LF</td>
<td>400</td>
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<tr>
<td>34</td>
<td>Low Strength Cement Grout (filling of voids over 12&quot;)</td>
<td>CY</td>
<td>50</td>
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<tr>
<td>35</td>
<td>Siphon Demolition</td>
<td>LS</td>
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<tr>
<td></td>
<td><strong>Underdrains and Wall Drains</strong></td>
<td></td>
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<tr>
<td>36</td>
<td>Demo Existing Concrete Floor for Underdrains</td>
<td>SF</td>
<td>1940</td>
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<tr>
<td>37</td>
<td>4&quot; Perforated HDPE Underdrain - Laterals (including fittings, geotextile, stone, backfill)</td>
<td>LF</td>
<td>720</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
1. 8" Solid HDPE Collector Underdrain - Center of Spillway (including fittings, geotextile, stone) LF 230
2. 8" Ductile Iron Pipe (daylight underdrain) LF 20
3. Concrete Repair and Construction Joint Replacement (following underdrain installation) CY 36
4. Wall Drain (2" drill hole, 1.5" slotted & solid pipe, end cap, geotextile, cement mortar) EA 14

| General |
|---------------------------------|---|---|
| Site Prep/ Mobilization + Onsite Job Trailer | LS | 1 |
| Erosion and Sediment Control | LS | 1 |
| Geotechnical Testing and Site Inspection | LS | 1 |
| Dewatering | LS | 1 |
| Site Restoration | LS | 1 |
| Chainlink Fence | LF | 820 |
| Replacement of Unsuitable Material (compacted in place) - extra material | CY | 300 |
| VDOT #1 Stone - extra material | CY | 300 |
| No. 57 Stone - extra material | CY | 300 |
| Rip-rap - extra material | CY | 300 |
| Marker Buoys with Heavy Nylon Rope and Anchor | LS | 1 |
| Handrail at Spillway Stairs (two handrails per set of stairs) | EA | 4 |

Lump Sum Bid Price (Items 1 through 53): ________________________________________________________________

___________________________________________ Dollars (in words)   ($ _______________________

Alternate #1 – Wet Weather Event Protection

<table>
<thead>
<tr>
<th>L.I.</th>
<th>Description</th>
<th>Unit</th>
<th>Qty.</th>
<th>Unit Price</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>54</td>
<td>Protection of Work During Wet Weather Event in Excess of 10-year Storm (water overtopping cofferdam and spillway)</td>
<td>EA</td>
<td>1</td>
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</tr>
</tbody>
</table>

Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment will be based on actual quantities, determined as provided in the Contract Documents.

The Owner reserves the right to reject all bids in lieu of awarding a contract in the event bid results exceed the available project funds.
5.02 ESCROW ACCOUNT OPTION

Bidder may elect to use an escrow account procedure for utilization of the retainage funds and most acknowledge his intention by checking one of the following options:

☐ Yes, an escrow account will be used for retainage funds.
☐ No, an escrow account will not be used for retainage funds.

If neither item is checked above, “No” will be assumed.

Escrow Agreement instructions and form are included following page.
ESCROW INSTRUCTION SHEET

A. The Franchisor shall return a fully executed copy of the escrow agreement, with original signatures, to the Division of Securities and Retail Franchising before its application will be made effective.

B. The Franchisor shall also provide to the Division in writing, the name of the bank, the name, address and telephone number of the person(s) at the bank who may be contacted for information regarding the escrow account, and the account number. Any changes to this information shall be immediately provided to the Division.

C. Funds in the escrow account will only be released upon completion by the Franchisor of its pre-opening obligations to the Franchisee. Requests for the release of escrowed funds shall be in writing and shall be sent to the Division. The Franchisor shall state in the request the exact amount of the funds to be released. The Division shall receive written certification from the Franchisee whose funds are to be released to the Franchisor. The certification shall state the amount of funds to be released, and that the Franchisor’s pre-opening obligations to the Franchisee have been satisfied.

D. Please refer to 21 VAC 5-110-65 of the Virginia Administrative Code, entitled “Escrow and Deferral”, for additional information on the operation of escrow accounts.
EXCROW AGREEMENT

This Escrow Agreement, made this ___ day of ________________________ ,
_____________________, by _________________________________________ organized under the laws of
the State of ____________________________________, (hereinafter referred to as “Franchisor”) and
____________________________________ (hereinafter referred to as “Bank”).

WHEREAS, the Franchisor desires to offer and sell franchises in the Commonwealth of
Virginia, and

WHEREAS, it is the discretion of the Virginia State Corporation Commission (the
“Commission”) as Administrator of the Virginia Retail Franchising Act, to require an escrow of
franchise fees and other fees paid by the franchisee to the Franchisor, and

WHEREAS, in order to conform to the procedures for arranging an escrow account, the
Franchisor desires to enter into an Escrow Agreement with the Bank, pursuant to which franchise fees
and other fees are to be held in escrow for the purpose of complying with the Virginia Retail Franchising
Act.

NOW, THEREFORE, with the foregoing recitals hereinafter incorporated by reference and made
a part hereof, it is agreed as follows:

1. The Franchisor shall, until release of escrowed funds as hereinafter provided, deposit with the
Bank, all monies obtained from each franchisee that contracts to operate the franchised business within
the Commonwealth of Virginia.

2. All funds delivered by the Franchisor to the Bank will be placed in a separate account designated
substantially as follows: ________________________________

3. The Bank shall pay out funds, plus interest if any, from the Escrow Account only upon the
occurrence of one of the following conditions:

   a. A letter from the President or Secretary of the Franchisor directing the Bank to pay out
      such funds to ________________________________ accompanied with a written notice
      from the Commission stating that it takes no exception to the release of such funds to
      ____________________________________________.

   b. Upon written notice from the Commission, the Bank shall return the deposited franchise
      fees and other fees to a specific franchisee.

   c. The Bank shall pay funds into court or disburse or deliver them in accordance with any
      order of any court of competent jurisdiction.
4. The Franchisor will supply the Bank with the name and address of each franchisee, together with
   the amount of the deposit that represents each franchisee’s franchise fees and other fees, and the Bank
   will retain records containing the same information.

5. Any funds deposited in the Escrow Account pursuant to this Escrow Agreement shall be invested
   and kept invested by the Bank in obligations of the United States, or a savings account or savings
   accounts of the Bank, or money market funds of or available to the Bank and to which the Bank or an
   affiliate is investment advisor or provides other services and receives reasonable compensation for such
   services, provided the money market funds are rated AAAm by Standard and Poor’s and Aaa by
   Moody’s Investor Services, or U.S. Treasury Bills, Notes or Bonds until such funds are to be disbursed
   as provided in Paragraph 3 hereof. All interest received and any increment shall be added to the funds so
   deposited in the Escrow Account and shall be distributed as provided in Paragraph 3 hereof.

6. The Commission may inspect the records of the Bank, insofar as they relate to this Escrow
   Agreement, for the purpose of determining compliance with and conformance to the provisions of this
   Escrow Agreement. At the Commission’s discretion, statements indicating the status of escrow shall be
   furnished by the Bank to the Commission.

7. The Franchisor shall pay to the Bank reasonable compensation for expenses incurred and
   services rendered by the Bank under this Escrow Agreement.

8. The Bank shall have no duty to determine the propriety of any deposit or disbursement of funds.
   Additionally, the Bank shall have no duty to the Franchisor, the Commission, any franchisee or any
   other party except as expressly stated in this Escrow Agreement. The Franchisor does hereby indemnify
   the Bank from any and all costs, claims and expenses, including attorneys’ fees, which may be incurred
   by or which may accrue to the Bank relating to the opening or maintenance of any account established
   under this Escrow Agreement.

9. All proceeds deposited pursuant to this Escrow Agreement shall not be subject to any liens or
   charges by the Bank, or judgments or creditor’s claims against the Franchisor.

10. The Franchisor shall give each franchisee a copy of this Escrow Agreement prior to collecting
    any funds from that franchisee.

11. The Bank’s duties under this Escrow Agreement shall terminate upon final distribution of all
    monies deposited as provided hereunder.

12. This Escrow Agreement is governed by the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, each party has caused this Escrow Agreement to be signed and executed,
and its corporate seal hereto affixed, in its name by its proper and fully authorized officer or officers on
the day and year first above written.
ATTEST:        NAME AND ADDRESS OF BANK

____________________________________
____________________________________
____________________________________

________________________________       By:             ______________________________________

(Bank’s Secretary)

Title:    _______________________________________

NAME AND ADDRESS OF FRANCHISOR

____________________________________
____________________________________
____________________________________

________________________________       By:             ______________________________________

(Franchisor’s Secretary)

Title:    _______________________________________


ARTICLE 6 – TIME OF COMPLETION

6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

7.01 The following documents are submitted with and made a condition of this Bid:

A. Acknowledgement of all Addenda

B. Bidder Compliance Statement/Certification Regarding Equal Employment Opportunity (RLF Attachment #2);

C. American Iron and Steel (AIS) Certification Statement (RLF Attachment #6);

D. Required Bid Bond;

E. List of Proposed Subcontractors meeting MBE/WBE requirements (RLF Attachment #1);

F. List of Proposed Suppliers meeting MBE/WBE requirements (RLF Attachment #1);

G. Evidence of authority to do business in the state of the Project;

H. Contractor’s License No.: ____________;

ARTICLE 8 – DEFINED TERMS

8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 9 – BID SUBMITTAL

9.01 This Bid is submitted by:

If Bidder is:

An Individual

Name (typed or printed): _________________________________________________

By: _________________________________________________

(Individual’s signature)
Doing business as: ________________________________

A Partnership

Partnership Name: ________________________________

By: ________________________________
   (Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): ________________________________

A Corporation

Corporation Name: ________________________________ (SEAL)

State of Incorporation: ____________________________
Type (General Business, Professional, Service, Limited Liability): _______

By: ________________________________
   (Signature -- attach evidence of authority to sign)

Name (typed or printed): ________________________________

Title: ________________________________
   (CORPORATE SEAL)

Attest  _________________________________________________________

Date of Qualification to do business in ____________ is ___/___/___.

A Joint Venture

Name of Joint Venture: ________________________________

First Joint Venturer Name: ________________________________ (SEAL)

By: ________________________________
   (Signature of first joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): ________________________________

Title: ________________________________
Second Joint Venturer Name: _________________________________ (SEAL)

By: ____________________________________________________
    (Signature of second joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _________________________________

Title: ________________________________________________

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Bidder's Business Address ________________________________

_____________________________________________________

Phone No. ____________________________ Fax No. ___________

E-mail ___________________________________________

SUBMITTED on ____________________, 20____.

State Contractor License No. ________________________.
CERTIFICATE OF COMPLIANCE
WITH
ARMY CORPS OF ENGINEERS PERMIT

Permit Number:   NAO-2020-00738
VMRC Number:   20-V0770

Corps Contact: Dana Heston

Name of Permittee:  City of Martinsville, Attn: Mike Kahle

Date of Issuance:   May 29, 2020

Permit Type:   Nationwide Permit (3)

Within 30 days of completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

US Army Corps of Engineers - Norfolk District
CENAO-WR-R
Attn: Dana Heston
Richard H. Poff Federal Building
210 Franklin Road SW, Room 749
Roanoke, VA 24018

Or scan and send via email to dana.m.heston@usace.army.mil

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation has been completed in accordance with the permit conditions.

________________________________________________________________________
Signature of Permittee    Date
Western Virginia Regulatory Section  
NAO-2020-00738 / VMRC#20-V0770 (Martinsville Reservoir)

Mr. Mike Kahle  
City of Martinsville  
55 W. Church Street  
Martinsville, Virginia 24112

Dear Mr. Kahle:

This is in regard to your Department of the Army permit application number NAO-2020-00738 (VMRC #20-V0770) to impact approximately 1500 square feet of the Martinsville Reservoir. Cofferdams will be placed in the Reservoir after the lake level is dropped four feet in order to perform some necessary repairs to the emergency spillway. The work will occur at 450 Redskin Drive in Martinsville, Virginia. These impacts are detailed on the enclosed drawings entitled “Beaver Creek Reservoir Spillway Improvements,” Figures C-101, C-102, C-103, prepared and submitted on behalf of the applicant by Dewberry Engineers Inc. and dated April 10, 2020, and date stamped as received by this office on May 6, 2020 (attached).

Your proposed work as outlined above satisfies the criteria contained in the Corps Nationwide Permit(s) (3), attached. The Corps Nationwide Permits were published in the January 6, 2017, Federal Register notice (82 FR 1860) and the regulations governing their use can be found in 33 CFR 330 published in Volume 56, Number 226 of the Federal Register dated November 22, 1991.

Provided the project specific conditions (above), Regional Conditions, and the Nationwide Permit General Conditions (enclosed) are met, an individual Department of the Army Permit will not be required. In addition, the Virginia Department of Environmental Quality has provided a conditional §401 Water Quality Certification for Nationwide Permit Number(s) 3. A permit may be required from the Virginia Marine Resources Commission and/or your local wetlands board, and this verification is not valid until you obtain their approval, if necessary. This authorization does not relieve your responsibility to comply with local requirements pursuant to the Chesapeake Bay Preservation Act (CBPA), nor does it supersede local government authority and responsibilities pursuant to the Act. You should contact your local government before you begin work to find out how the CBPA applies to your project.

Enclosed is a "compliance certification" form, which must be signed and returned within 30 days of completion of the project, including any required mitigation. Your
signature on this form certifies that you have completed the work in accordance with the Nationwide permit terms and conditions.

This verification is valid until the Nationwide Permit is modified, reissued, or revoked. All of the existing Nationwide Permits are scheduled to be modified, reissued, or revoked prior to March 18, 2022. It is incumbent upon you to remain informed of changes to the Nationwide Permits. We will issue a public notice when the Nationwide Permits are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the Nationwide Permit to complete the activity under the present terms and conditions of this Nationwide Permit unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 330.4(e) and 33 CFR 330.5 (c) or (d). Project specific conditions listed in this letter continue to remain in effect after the Nationwide Permit verification expires, unless the district engineer removes those conditions. Activities completed under the authorization of a Nationwide Permit which was in effect at the time the activity was completed continue to be authorized by that Nationwide Permit.

In granting an authorization pursuant to this permit, the Norfolk District has relied on the information and data provided by the permittee. If, subsequent to notification by the Corps that a project qualifies for this permit, such information and data prove to be materially false or materially incomplete, the authorization may be suspended or revoked, in whole or in part, and/or the Government may institute appropriate legal proceedings.

If you have any questions and/or concerns about this permit authorization, please contact Dana Heston via telephone at (540) 344-1409 or via email at dana.m.heston@usace.army.mil.

Sincerely,

Dana Heston
Environmental Scientist
Western Virginia Regulatory Section

Enclosure(s):
Compliance Certification
Project Plans
Nationwide Permit 3
Cc:  Leslie Barksdale, Dewberry Engineers, Inc.
    Mike Johnson, Virginia Marine Resources Commission
    Shawn Crist, Virginia Department of Environmental Quality
Nationwide Permit (3) Maintenance
Effective 3/19/2017
Expires 3/18/2022

(a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure’s configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP also authorizes the removal of previously authorized structures or fills. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project. This NWP also authorizes the removal of accumulated sediment and debris within, and in the immediate vicinity of, the structure or fill. This NWP also authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) This NWP also authorizes the removal of accumulated sediments and debris outside the immediate vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.). The removal of sediment is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend farther than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an area that has no waters of the United States unless otherwise specifically approved by the district engineer under separate authorization.

(c) This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After conducting the maintenance activity, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

(d) This NWP does not authorize maintenance dredging for the primary purpose of navigation. This NWP does not authorize beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 32). The pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals.

Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act section 404(f) exemption for maintenance.

Authority: Section 10 of the Rivers and Harbors Act of 1899 and section 404 of the Clean Water Act (Sections 10 and 404)

REGIONAL CONDITIONS:

1. Conditions for Waters Containing Submerged Aquatic Vegetation (SAV)
   - Beds: This condition applies to: NWPs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 25, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 39, 44, 45, 48, 52, 53 and 54. A pre-construction notification (PCN) is required if work will occur in areas that contain submerged aquatic vegetation (SAV). Information about SAV habitat can be found at the Virginia Institute of Marine Science’s website http://web.vims.edu/bio/sav/. Additional avoidance and minimization measures, such as relocating a structure or time-of-year restrictions (TOYR), may be required to reduce impacts to SAV habitat.

2. Conditions for Anadromous Fish Use Areas: To ensure that activities authorized by any NWP do not impact documented spawning habitat or a migratory pathway for anadromous fish, a check for anadromous fish use areas must be conducted via the Norfolk District’s Regulatory GIS (for reporting permits) and/or the Virginia Department of Game and Inland Fisheries (VDGIF) Information System (by applicant for non-reporting permits) at http://vafwis.org/fwis/. For any proposed NWP, if the project is located in an area documented as an anadromous fish use area (confirmed or potential), a time-of-year restriction (TOYR) prohibiting all in-water work will be required from February 15 to June 30 of any given year or any TOYR specified by VDGIF and/or Virginia Marine Resources Commission (VMRC). For permits requiring a PCN, if the Norfolk District determines that the work is minimal and the TOYR is unnecessary, informal consultation will be conducted with NOAA Fisheries Service (NOAA) to obtain concurrence that the TOYR would not be required for the proposed activity. For dredging in the Elizabeth River upstream of the Mid-Town Tunnel on the mainstem and the West Norfolk Bridge (Route 164, Western Freeway) on the Western Branch of the Elizabeth River, a TOYR is not required.
3. Conditions for Designated Critical Resource Waters, which include National Estuarine Research Reserves: Notification is required for work under NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38 and 54 in the Chesapeake Bay National Estuarine Research Reserve in Virginia. This multi-site system along a salinity gradient of the York River includes Sweet Hall Marsh, Taskinas Creek, Catlett Islands, and Goodwin Islands. More information can be found at: https://www.vims.edu/cbner/. NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 cannot be used to authorize the discharge of dredged or fill material in the Chesapeake Bay National Estuarine Research Reserve in Virginia.

4. Conditions for Federally Listed Species and Designated Critical Habitat: For ALL NWPs, notification is required for any project that may affect a federally listed threatened or endangered species or designated critical habitat. The U.S. Fish and Wildlife Service (Service) has developed an online system that allows users to find information about sensitive resources that may occur within the vicinity of a proposed project. This system is named “Information, Planning and Conservation System,” (IPaC), and is located at: http://ecos.fws.gov/ipac/. The applicant may use IPaC to determine if any federally listed species or designated critical habitat may be affected by their proposed project. If your Official Species List from IPaC identifies any federally listed endangered or threatened species, you are required to submit a PCN for the proposed activity, unless the project clearly does not impact a listed species or suitable habitat for the listed species.

   5. Conditions for Waters with Federally Listed Endangered or Threatened Species, Waters Federally Designated as Critical Habitat, and One-mile Upstream (including tributaries) of Any Such Waters: Any work proposed in critical habitat, as designated in regional condition 4, requires a PCN.

   6. Conditions for Designated Trout Waters: Notification is required for work in the areas listed below for NWPs 3, 4, 5, 6, 7, 12, 13, 14, 16, 17, 18, 19, 21, 23, 25, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 49, 50, 51, 52, 53, and 54. This condition applies to activities occurring in two categories of waters: Class V (Put and Take Trout Waters) and Class VI (Natural Trout Waters), as defined by the Virginia State Water Control Board Regulations, Water Quality Standards (VR-680-21-00), dated January 1, 1991, or the most recently updated publication. The Virginia Department of Game and Inland Fisheries (VDGIF) designated these same trout streams into six classes.

   Classes I-IV are considered wild trout streams. Classes V and VI are considered stockable trout streams. Information on designated trout streams can be obtained via their Virginia Fish and Wildlife Information Service’s (VAFWIS’s) Cold Water Stream Survey database. Basic access to the VAFWIS is available via http://vafwis.state.va.us/. The waters, occurring specifically within the mountains of Virginia, are within the following river basins:

   1) Potomac-Shenandoah River Basins
   2) James River Basin
   3) Roanoke River Basin
   4) New River Basin
   5) Tennessee and Big Sandy River Basins
   6) Rappahannock River Basin

   VDGIF recommends the following time-of-year restrictions (TOYRs) for any in-stream work within streams identified as wild trout waters in its Cold Water Stream Survey database. The recommended TOYRs for trout species are:

   - Brook Trout: October 1 through March 31
   - Brown Trout: October 1 through March 31
   - Rainbow Trout: March 15 through May 15

   This condition applies to the following counties and cities: Albemarle, Allegheny, Amherst, Augusta, Bath, Bedford, Bland, Botetourt, Bristol, Buchanan, Buena Vista, Carroll, Clay, Covington, Craig, Dickenson, Floyd, Franklin, Frederick, Giles, Grayson, Greene, Henry, Highland, Lee, Loudoun, Madison, Montgomery, Nelson, Page, Patrick, Pulaski, Rappahannock, Roanoke City, Roanoke Co., Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Staunton, Tazewell, Warren, Washington, Waynesboro, Wise, and Wythe. Any discharge of dredged and/or fill material authorized by the NWPs listed above, which would occur in the designated waterways or adjacent wetlands of the specified counties, requires notification to the appropriate Corps of Engineers field office, and written approval from that office prior to performing the work. The Norfolk District recommends that prospective permittees first contact the applicable Norfolk District Field Office, found at this web link: http://www.nao.usace.army.mil/Missions/Regulatory/USFWS.aspx, to determine if the PCN procedures would apply. The notification must be in writing and include the following information (the standard Joint Permit Application may also be used):

   - Name, address, and telephone number of the prospective permittee.
   - Name, address, email, and telephone number of the property owner.
   - Location of the proposed project.
   - Brief description of the proposed project and the project purpose.
   - Vicinity map and project drawings on 8.5-inch by 11-inch paper (plan view, profile, & cross-sectional view).

   When all required information is received by the appropriate field office, the Corps will notify the prospective permittee within 45 days whether the project can proceed under the NWP or whether an individual permit is required. If, after reviewing the PCN, the District Commander determines that the proposed activity would have more than minimal individual or cumulative adverse impacts on the aquatic environment or otherwise may be contrary to the public interest, then
he/she will either condition the nationwide permit authorization to reduce or eliminate the adverse impacts, or notify the prospective permittee that the activity is not authorized by the NWP and provide instructions on how to seek authorization under an individual permit. If the prospective permittee is not notified otherwise within the 45-day period, the prospective permittee may assume that the project can proceed under the NWP.

7. Conditions Regarding Invasive Species: Plant species listed by the most current Virginia Department of Conservation and Recreation’s Invasive Alien Plant List shall not be used for re-vegetation for activities authorized by any NWP. The list of invasive plants in Virginia may be found at: http://www.dcr.virginia.gov/natural-heritage/invsppdflist. DCR recommends the use of regional native species for re-vegetation as identified in the DCR Native Plant List. Visit the Virginia Department of Conservation and Recreation’s Invasive Alien Plant List to see the list of invasive plants in Virginia along with instructions on how to prevent the spread of invasive species. For more information on invasive species in the Piedmont and Mountain regions, visit the Virginia Department of Conservation and Recreation’s Invasive Alien Plant List or the Virginia Department of Conservation and Recreation’s Invasive Alien Plant List. DCR recommends the use of regional native species for re-vegetation as identified in the DCR Native Plant List. Visit the Virginia Department of Conservation and Recreation’s Invasive Alien Plant List to see the list of invasive plants in Virginia along with instructions on how to prevent the spread of invasive species. For more information on invasive species in the Piedmont and Mountain regions, visit the Virginia Department of Conservation and Recreation’s Invasive Alien Plant List or the Virginia Department of Conservation and Recreation’s Invasive Alien Plant List.

8. Conditions Pertaining to Countersinking of Pipes and Culverts: This condition applies to: NWPs 3, 7, 12, 14, 17, 18, 21, 23, 25, 27, 29, 32, 33, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 49, 50, 51, and 52. NOTE: COUNTERSINKING IS NOT REQUIRED IN TIDAL WATERS. However, replacement pipes/culverts in tidal waters must be installed with invert elevations no higher than the existing pipe/culvert invert elevation, and a new pipe/culvert must be installed with the invert no higher than the stream bottom elevation. For Nontidal Waters: Following consultation with the Virginia Department of Game and Inland Fisheries (VDGIF), the Norfolk District has determined that fish and other aquatic organisms are most likely present in any stream being crossed, in the absence of site-specific evidence to the contrary. Although prospective permittees have the option of providing such evidence, extensive efforts to collect such information is not encouraged, since countersinking will in most cases be required except as outlined in the conditions below. The following conditions will apply in nontidal waters:

a. All pipes: All pipes and culverts placed in streams will be countersunk at both the inlet and outlet ends, unless indicated otherwise by the Norfolk District on a case-by-case basis (see below). Pipes that are 24” or less in diameter shall be countersunk 3” below the natural stream bottom. Pipes that are greater than 24” in diameter shall be countersunk 6” below the natural stream bottom. The countersinking requirement does not apply to bottomless pipes/culverts or pipe arches. All single pipes or culverts (with bottoms) shall be depressed (countersunk) below the natural streambed at both the inlet and outlet of the structure. In sets of multiple pipes or culverts (with bottoms) at least one pipe or culvert shall be depressed (countersunk) at both the inlet and outlet to convey low flows.

b. When countersinking culverts, permittees must ensure reestablishment of a surface water channel (within 15 days post construction) that allows for the movement of aquatic organisms and maintains the same hydrologic regime that was present pre-construction (i.e. the depth of surface water through the permit area should match the upstream and downstream depths). This may require the addition of finer materials to choke the larger stone and/or placement of riprap to allow for a low flow channel.

c. Exemption for extensions and certain maintenance: The requirement to countersink does not apply to extensions of existing pipes or culverts that are not countersunk, or to maintenance to pipes/culverts that does not involve replacing the pipe/culvert (such as repairing cracks, adding material to prevent/correct scour, etc.).

d. Floodplain pipes: The requirement to countersink does not apply to pipes or culverts that are being placed above ordinary high water, such as those placed to allow for floodplain flows. The placement of pipes above ordinary high water is not jurisdictional (provided no fill is discharged into wetlands).

e. Hydraulic opening: Pipes should be adequately sized to allow for the passage of ordinary high water with the countersinking and invert restrictions taken into account.

f. Pipes on bedrock or above existing utility lines: Different procedures will be followed for pipes or culverts to be placed on bedrock or above existing buried utility lines where it is not practicable to relocate the lines, depending on whether the work is for replacement of an existing pipe/culvert or a new pipe/culvert.

i. Replacement of an existing pipe/culvert: Countersinking is not required provided the elevations of the inlet and outlet ends of the replacement pipe/culvert are no higher above the stream bottom than those of the existing pipe/culvert. Documentation (photographic or other evidence) must be maintained in the permittee’s records showing the bedrock condition and the existing inlet and outlet elevations. That documentation will be available to the Norfolk District upon request, but notification or coordination with the Norfolk District is not otherwise required.

ii. A pipe/culvert is being placed in a new location: If the prospective permittee determines that bedrock or an existing buried utility line that is not practicable to relocate prevents countersinking, he/she must submit a pre-construction notification (PCN) to the Norfolk District in accordance with General Condition 32 of the NWPs. In addition to the information required by General Condition 32, the prospective permittee must provide documentation of measures evaluated to minimize disruption of the movement of aquatic life as well as documentation of the cost, engineering factors, and site conditions that prohibit countersinking the pipe/culvert. Options that must be considered include partial countersinking (such as less than 3” of countersinking, or countersinking of one end of the pipe), and constructing stone step pools, low rock weirs downstream, or other measures to provide for the movement of aquatic organisms. The PCN must also include photographs documenting site conditions. The prospective permittee may find it helpful to contact the regional fishery biologist for the VDGIF, for recommendations about the measures to be taken to allow for fish movements. When seeking advice from VDGIF, the prospective permittee should provide the VDGIF biologist with all available information such as location, flow rates, stream bottom features, description of proposed pipe(s), slopes, etc. Any recommendations from VDGIF should
be included in the PCN. The Norfolk District will notify the prospective permittee whether the proposed work qualifies for the nationwide permit within 45 days of receipt of a complete PCN. NOTE: Blasting of stream bottoms through the use of explosives is not acceptable as a means of providing for countersinking of pipes on bedrock.

**g. Pipes on steep terrain:** Pipes being placed on steep terrain (slope of 5% or greater) must be countersunk in accordance with the conditions above and will in most cases be non-reporting. It is recommended that on slopes greater than 5%, a larger pipe than required be installed to allow for the passage of ordinary high water in order to increase the likelihood that natural velocities can be maintained. There may be situations where countersinking both the inlet and outlet may result in a slope in the pipe that results in flow velocities that cause excessive scour at the outlet and/or prohibit some fish movement. This type of situation could occur on the side of a mountain where falls and drop pools occur along a stream. Should this be the case, or should the prospective permittee not want to countersink the pipe/culvert for other reasons, he/she must submit a PCN to the Norfolk District in accordance with General Condition 32 of the Nationwide Permits. In addition to the information required by General Condition 32, the prospective permittee must provide documentation of measures evaluated to minimize disruption of the movement of aquatic life as well as documentation of the cost, engineering factors, and site conditions that prohibit countersinking the pipe/culvert. The prospective permittee should design the pipe to be placed at a slope as steep as stream characteristics allow, countersink the inlet 3-6", and implement measures to minimize any disruption of fish movement. These measures can include constructing a stone step/pool structure, preferably using river rock/native stone rather than riprap, constructing low rock weirs to create a pool or pools, or other structures to allow for fish movements in both directions. Stone structures should be designed with sufficient-sized stone to prevent erosion or washout and should include keying-in as appropriate. These structures should be designed both to allow for fish passage and to minimize scour at the outlet. The quantities of fill material to be displaced must be calculated to ensure that the new pipe/culvert will be stable and not disrupt aquatic life. Placement of fill material must be carefully planned to minimize the impact on stream channels and aquatic life. The prospective permittee may find it helpful to contact the regional fishery biologist for recommendations about the measures to be taken to allow for fish movements. When seeking advice from DGIF, the prospective permittee should provide the DGIF biologist with all available information such as location, flow rates, stream bottom features, description of proposed pipe(s), slopes, etc. Any recommendations from DGIF should be included in the PCN. The Norfolk District will notify the prospective permittee whether the proposed work qualifies for the nationwide permit within 45 days of receipt of a complete PCN.

**h. Problems encountered during construction:** When a pipe/culvert is being replaced, and the design calls for countersinking at both ends of the pipe/culvert, and during construction it is found that the streambed/banks are on bedrock, a utility line, or other documentable obstacle, then the permittee must stop work and contact the Norfolk District (contact by telephone and/or email is acceptable). The permittee must provide the Norfolk District with specific information concerning site conditions and limitations on countersinking. The Norfolk District will work with the permittee to determine an acceptable plan, taking into consideration the information provided by the permittee, but the permittee should recognize that the Norfolk District could determine that the work will not qualify for a nationwide permit.

**i. Emergency pipe replacements:** In the case of an emergency situation, such as when a pipe/culvert washes out during a flood, a permittee is encouraged to countersink the replacement pipe at the time of replacement, in accordance with the conditions above. However, if conditions or timeframes do not allow for countersinking, then the pipe can be replaced as it was before the washout, but the permittee will have to come back and replace the pipe/culvert and countersink it in accordance with the guidance above. In other words, the replacement of the washed out pipe is viewed as a temporary repair, and a countersunk replacement should be made at the earliest possible date. The Norfolk District must be notified of all pipes/culverts that are replaced without countersinking at the time that it occurs, even if it is an otherwise non-reporting activity, and must provide the permittee's planned schedule for installing a countersunk replacement (it is acceptable to submit such notification by email). The permittee should anticipate whether bedrock or steep terrain will limit countersinking, and if so, should follow the procedures outlined in (g) and/or (h) above.

**9. Conditions for the Repair of Pipes:** This condition applies to: NWPs 3, 7, 12, 14, 17, 18, 21, 23, 25, 27, 29, 32, 33, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 49, 50, 51, and 52.

**NOTE: COUNTERSINKING IS NOT REQUIRED IN TIDAL WATERS.** However, replacement pipes/culverts in tidal waters must be installed with invert elevations no higher than the existing pipe/culvert invert elevation, and a new pipe/culvert must be installed with the invert no higher than the stream bottom elevation. For Nontidal Waters: If any discharge of fill material will occur in conjunction with pipe maintenance, such as concrete being pumped over rebar into an existing deteriorated pipe for stabilization, then the following conditions apply:

**a. If the existing pipe or multi-barrel array of pipes are NOT currently countersunk:**

i. As long as the inlet and outlet invert elevations of at least one pipe located in the low flow channel are not being altered, and provided that no concrete apron is being constructed, then the work may proceed under the NWP for the other pipes, provided it complies with all other NWP General Conditions, including Condition 9 for Management of Water Flows. In such cases, notification to the Norfolk District Commander is not required, unless specified in the NWP Conditions for other reasons, and the permittee may proceed with the work.

ii. Otherwise, the prospective permittee must submit a pre-construction notification (PCN) to the Norfolk District Commander prior to commencing the activity. For all such projects, the following information should be provided:

1) Photographs of the existing inlet and outlet;
2) A measurement of the degree to which the work will raise the invert elevations of both the inlet and outlet of the existing pipe;
3) The reasons why other methods of pipe maintenance are not practicable (such as metal sleeves or a countersunk pipe replacement);
4) A vicinity map showing the pipe locations.

Depending on the specific case, the Norfolk District may discuss potential fish usage of the waterway with the Virginia Department of Game and Inland Fisheries. The Norfolk District will assess all such pipe repair proposals in accordance with guidelines that can be found under “Pipe Repair Guidelines” at: http://www.nao.usace.army.mil/Missions/Regulatory/GuidanceDocuments.aspx

iii. If the Norfolk District determines that the work qualifies for the NWP, additional conditions will be placed on the verification. Those conditions can be found at the web link above (in item ii).
iv. If the Norfolk District determines that the work does NOT qualify for the NWP, the applicant will be directed to apply for either Regional Permit 01 (applicable only for Virginia Department of Transportation projects) or an Individual Permit.

v. It is anticipated that the applicant will still be required to perform the work such that the waterway is not blocked or restricted to a greater degree than its current conditions.
b. If the existing pipe or at least one pipe in the multi-barrel array of pipes is countersunk and at least one pipe located in the low flow channel will continue to be countersunk, and no concrete aprons are proposed: No PCN to the Norfolk District is required, unless specified in the NWP Conditions for other reasons, and the permittee may proceed with the work.
c. If the existing pipe or at least one pipe in the multi-barrel array of pipes is countersunk and no pipe will continue to be countersunk in the low flow channel: This work cannot be performed under the NWPs. The prospective permittee must apply for either a Regional Permit 01 (applicable only for VDOT projects) or an Individual Permit. However, it is anticipated that the prospective permittee will still be required to perform the work such that the waterway is not blocked or restricted more so than its current conditions.
d. In emergency situations, if conditions or timeframes do not allow for compliance with the procedure outlined herein, then the pipe can be temporarily repaired to the condition before the washout. If the temporary repair would require a PCN by the above procedures, the permittee must submit the PCN at the earliest practicable date, but no longer than 15 days after the temporary repair.

11. **Condition for Temporary Impacts:** All temporarily disturbed waters and wetlands must be restored to their pre-construction contours within 12 months of commencing the temporary impacts’ construction. Impacts that will not be restored within 12 months (calculated from the start of the temporary impacts’ construction) will be considered permanent, unless otherwise approved by the Corps, and mitigation may be required. Once restored to their natural contours, soil in these areas must be mechanically loosened to a depth of 12 inches and wetland areas must be seeded or sprigged with appropriate native vegetation (see Regional Condition 7 regarding revegetation).

12. **Condition for Transportation Projects Funded in Part or in Total by Local, State or Federal Funds:** For all impacts associated with transportation projects funded in part or in total by local, state or federal funds and requiring a PCN, compensatory mitigation will generally be required for all permanent wetland impacts (including impacts less than 1/10 acre). Therefore, the PCN must include a mitigation plan addressing the proposed compensatory mitigation.

13. **Condition for Projects Requiring Coordination Under Section 408:** General Condition 31 of the NWPs requires that prospective permittees submit a pre-construction notification (PCN) if an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a US Army Corps of Engineers (USACE) federally authorized civil works project. For information on the location of Norfolk District projects, prospective permittees are directed to the maps showing the locations of Norfolk District projects located at: http://www.nao.usace.army.mil/Portals/31/docs/regulatory/RPS/docs/RP-17_Corps_Project_Maps.pdf. If the prospective permittee is uncertain whether the proposed activity might alter or temporarily or permanently occupy or use a Norfolk District federally authorized civil works project, the prospective permittee shall submit a PCN.

**GENERAL CONDITIONS:**

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR §§ 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR § 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. **Navigation.**
   a. No activity may cause more than a minimal adverse effect on navigation.
(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structure or work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects from Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers.

(a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed
NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov.

17. Tribal Rights. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. Endangered Species.

(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their World Wide Web pages at http://www.fws.gov or http://www.fws.gov/ipac and http://www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.


(a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to
demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

(d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110(k) of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless
the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(b) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(c) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

1. The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

2. The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(1)). (See also 33 CFR 332.3(f)).

3. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

4. If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

5. If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

6. Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.
25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

_____________________________________________
(Transferee)

_____________________________________________
(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE project”), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification.

(a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

1. He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

2. 45 calendar days have passed from the district engineer’s receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical
(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

1. Name, address and telephone numbers of the prospective permittee;
2. Location of the proposed activity;
3. Identify the specific NWP or NWPs the prospective permittee wants to use to authorize the proposed activity;
4. A description of the proposed activity; the activity’s purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.
5. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);
6. For non-Federal permittees, if any listed species or designated critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is “no effect” on listed species or “no potential to cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination:
(1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity’s compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity’s adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 49, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity’s compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies’ concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

**DISTRICT ENGINEER’S DECISION:**

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the individual crossings of waters of the United States to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 49, 50, 51, 52, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects. For those NWPs that have a waivable 300 linear foot limit for losses of intermittent and ephemeral stream bed and a 1/2-acre limit (i.e., NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, and S2), the loss of intermittent and ephemeral stream bed, plus any other losses of jurisdictional waters and wetlands, cannot exceed 1/2-acre.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters (e.g., streams). The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and
include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant’s submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31, or to evaluate PCNs for activities authorized by NWPs 21, 49, and 50), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

**Further Information:**

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

**SECTION 401 WATER QUALITY CERTIFICATION (4/7/17):**

The State Water Control Board issued conditional §401 Water Quality Certification for NWP 3 as meeting the requirements of the Virginia Water Protection Permit Regulation, which serves as the Commonwealth’s §401 Water Quality Certification, provided that: (1) the deviations from the original configuration or filled area do not change the character, slope, or size of the original design or approved alternative design; (2) the discharge: a) would not increase the capacity of an impoundment, or b) would not reduce instream flows; (3) any compensatory mitigation meets the requirements in the Code of Virginia, Section 62.1-44.15:23 A through C, except in the absence of same river watershed alternatives in Hydrologic Unit Codes (HUC) 02040303 and 02040304, single family dwellings or locality projects may use compensatory mitigation in HUC 02080102, 02080108, 02080110, or 02080111 in Virginia; (4) the Corps of Engineers shall provide DEQ an annual report of projects authorized by this Nationwide Permit that includes detailed information on physical changes to water withdrawal structures, such as the maintenance of an intake, dam, weir, or water diversion structure that are deviations from the original configuration, or are a change in the character, scope, or size of the original design, or where those deviations would otherwise reduce instream flows.

**COASTAL ZONE MANAGEMENT ACT CONSISTENCY DETERMINATION (4/5/17):**

Based on the comments submitted by the agencies administering the enforceable policies of the Virginia CZM Program, DEQ concurs that the 2017 NWPs and Virginia Regional Conditions as proposed, are consistent with the Virginia CZM Program provided the following conditions, discussed below, are satisfied:

1) Prior to construction, applicants shall obtain all required permits and approvals for activities to be performed that are applicable to the Virginia CZM Program's enforceable policies, and that applicants adhere to all the conditions contained therein.

The Virginia Marine Resources Commission's (VMRC) concurrence of consistency with regard to the fisheries management, subaqueous lands management, wetlands management, and dunes management enforceable policies is based on the recognition that prospective permittees may be required to obtain additional state and/or local approvals from the VMRC and/or the local wetlands board prior to commencement of work in both tidal and nontidal waters under the agency's jurisdiction. Such approvals must precede implementation of the projects.

2) The DEQ Office of Wetlands and Stream Protection (OWSP) has provided §401 Clean Water Act (CWA) Water Quality Certification for the 2017 NWPs and Regional Conditions, applicable to the wetlands management and point source pollution control enforceable policies of the Virginia CZM Program. The activities that qualify for the NWPs must meet the requirements of DEQ's Virginia Water Protection Permit Regulation (9 VAC 25-210-130) and the permittee must abide by the conditions of the NWP. DEQ-OWSP has identified specific NWP exceptions. DEQ will process an individual application for a permit or a certificate or otherwise take action pursuant to 9 VAC 25-210-80 et seq. for those activities covered by an NWPs that have not received blanket §401 CWA Water Quality Certification.
The Corps should forward pre-construction notifications to DEQ for applicants that do not comply with or cannot meet the conditions of the §401 CWA Water Quality Certification. Further, the Commonwealth reserves its right to require an individual application for a permit or a certificate or otherwise take action on any specific project that could otherwise be covered under any of the NWPs when it determines on a case-by-case basis that concerns for water quality and the aquatic environment so indicate.

In accordance with the Federal Consistency Regulations at 15 CFR Part 930, section 930.4, this conditional concurrence is based on the applicants demonstrating to the Corps that they have obtained, or will obtain, all necessary authorizations prior to implementing a project which qualifies for a NWP. 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 940.43.
**DISTRIBUTION OF PLANS AND SPECIFICATIONS/PLAN DEPOSIT REPORT**

**Project Name:** Beaver Creek Reservoir Spillway Improvements Project

**Client:** City of Martinsville Water Resources Department

**Bid Date/Time/Place:** Sealed written responses must be received by June 12, 2020 at 2:00 p.m.

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<td><strong>City Website:</strong></td>
<td>Emailed 5/28/2020</td>
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<tr>
<td>Mike Kahle – 276-403-51517</td>
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<td>Shannon Agee – 276-806-0250</td>
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<td><a href="mailto:mkahle@ci.martinsville.va.us">mkahle@ci.martinsville.va.us</a></td>
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<tr>
<td><strong>Valley Construction News</strong></td>
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<td>(888) 922-3669</td>
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<td><a href="mailto:emilyvcn@yahoo.com">emilyvcn@yahoo.com</a></td>
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<td><strong>Builders Exchange of Richmond</strong></td>
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<td><strong>Rain For Rent</strong></td>
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<td>Noah Kwick, Senior Solutions Expert</td>
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<td>Office: 804.732.6914</td>
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<td>Martha Dudley, Corporate Secretary</td>
<td>Emailed 5/22/20</td>
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<td>Office: 434.993.2214</td>
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<td><a href="mailto:mpburleigh@burleighconstruction.com">mpburleigh@burleighconstruction.com</a></td>
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<td><a href="mailto:drunion@burleighconstruction.com">drunion@burleighconstruction.com</a></td>
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| **RamJack USA**                         |                      |
| Arthur Torsone                          | Emailed 5/26/20      |
| Estimator                               |                      |
| Office: 843.582.2888                    | Emailed 5/28/20      |
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| **Nathan Hackney**                      |                      |
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| **Tom Gibbs**                           |                      |
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| **Steve Martin's Trenching, Inc.**      |                      |
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| Steve - 276-340-9259                     |                      |
| Patrick 276-340-9264                     |                      |
| smtinc@centurylink.net                   |                      |
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<td>Danny Hoyle</td>
<td>Chief Estimator</td>
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<td>Greg Bernier</td>
<td>Estimator</td>
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<td>Andy Haymes, Vice President</td>
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<td><a href="mailto:ahaymes@haymesbrothers.com">ahaymes@haymesbrothers.com</a></td>
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<td>Allegheny Construction Co., Inc.</td>
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<td>John W. Douthat</td>
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<td>Office: 540-345-0817</td>
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<td>919-369-4585 (cell) 336-395-7050 (office)</td>
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