



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
Street address: 629 East Main Street, Richmond, Virginia 23219
Mailing address: P.O. Box 1105, Richmond, Virginia 23218
TDD (804) 698-4021
www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

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

July 11, 2013

Mr. Brian M. Key, P.E.
Executive Director
Bedford Regional Water Authority
1723 Falling Creek Road
Bedford, VA 24523

VIA EMAIL

Re: Modification of Virginia Water Protection Permit 96-0707, Bedford County, Virginia
JPA No. 11-0359
Draft Permit and Public Notice

Dear Mr. Key:

Enclosed for your review are the Virginia Department of Environmental Quality (DEQ) Public Notice and draft Virginia Water Protection (VWP) individual permit to be issued for the above-referenced project. If you have any questions, comments, or objections concerning the Public Notice or draft permit, please contact me within 14 calendar days of the date of this letter. Once the Public Notice is published, changes cannot be made to the permit unless public comments warrant a change.

Acceptance of the permit is evidenced by publishing the enclosed Public Notice, which must be done once at your (the applicant's) expense in a newspaper of general circulation in the area of the project. Publication of the Public Notice initiates the required 30-calendar day comment period. Day 1 of the comment period begins the day following its publication. It is your responsibility to ensure that the comment period stated on the public notice is for a full 30-calendar day period and that the final day of the comment period ends on a state business day. DEQ requires proof of publication of the Public Notice. Please instruct the publisher to complete the attached sworn verification statement and forward the statement to my attention at the address on this letterhead.

Please notify me via email when the public notice is published in the paper. If the Public Notice is not published within **14 calendar days**, DEQ will suspend processing of your permit application until evidence of publication is received. The processing clock will resume on the date of publication.

Should you have any questions, please contact me at (804)-698-4180, at Brian.McGurk@deq.virginia.gov, or at the above address. Thank you for your cooperation in this matter.

Respectfully,

A handwritten signature in blue ink that reads "Brian McGurk".

Brian McGurk
Water Resource Modeler
Office of Water Supply

Enclosures: Public Notice, Public Notice Verification Form, Permit Cover Page, Part I - Special Conditions, Part II - General Conditions, Attachment A – Water Conservation

cc: Mr. David Inman, Anderson & Associates, Inc. – VIA EMAIL
Ms. Jeanne Richardson, U.S. Army Corps of Engineers, Field Office – VIA EMAIL
Ms. Juliette Giordano, Virginia Marine Resources Commission – VIA EMAIL
Mr. Mitchell R. Childrey, Virginia Department of Health – VIA EMAIL

Public Notice – Environmental Permit

PURPOSE OF NOTICE: To seek public comment on a draft permit from the Department of Environmental Quality that will allow the modification of an existing intake and withdrawal from Smith Mountain Lake, Bedford County, Virginia.

PUBLIC COMMENT PERIOD: For 30 days, starting from the day after the notice is in the newspaper: July 18, 2013 to August 19, 2013 at 5:00 p.m.

PERMIT NAME: Virginia Water Protection Permit issued by DEQ, under the authority of the State Water Control Board

APPLICANT NAME, ADDRESS AND PERMIT NUMBER: Bedford Regional Water Authority, 1723 Falling Creek Road, Bedford, VA 24523; VWPP No. 96-0707.

PROJECT DESCRIPTION: The Bedford Regional Water Authority (BRWA) proposes to expand the existing intake structure at the High Point water intake site on Smith Mountain Lake in Bedford County from its currently permitted, maximum daily rate of 2.99 million gallons to a maximum daily rate of 12 million gallons. The intake is located on Lakewood Drive, south of High Point Road and west of State Route 654 in Bedford County. The permit will allow the applicant to impact 0.69 acres of open water associated with the expansion of the surface water intake structure. Compensatory mitigation is not recommended because there will be no loss of surface water area and a minimal amount of open water impacts. The draft permit proposes a maximum allowable daily withdrawal of 12 million gallons per day (mgd) and a maximum allowable annual withdrawal of 2306 million gallons. The permit contains limits on the withdrawal rates that depend upon completion of waterline extensions to service areas within Bedford County, and additional limits that depend upon either completion of a waterline extension in Franklin County or an amendment to an existing water purchase agreement between the applicant and the Western Virginia Water Authority. The activity proposed in the permit will affect Smith Mountain Lake in the Roanoke River watershed. A watershed is the land area drained by a river and its incoming streams. DEQ's preliminary decision is to issue the permit.

HOW TO COMMENT AND/OR REQUEST A PUBLIC HEARING: DEQ accepts comments and requests for public hearing by e-mail, fax or postal mail. All comments and requests must be in writing and be received by DEQ during the comment period. Submittals must include the names, mailing addresses and telephone numbers of the commenter/requester and of all persons represented by the commenter/requester. A request for public hearing must also include: 1) The reason why a public hearing is requested. 2) A brief, informal statement regarding the nature and extent of the interest of the requester or of those represented by the requestor, including how and to what extent such interest would be directly and adversely affected by the permit. 3) Specific references, where possible, to terms and conditions of the permit with suggested revisions. A public hearing may be held, including another comment period, if public response is significant, based on individual requests for a public hearing, and there are substantial, disputed issues relevant to the permit.

CONTACT FOR PUBLIC COMMENTS, DOCUMENT REQUESTS AND ADDITIONAL INFORMATION: Brian McGurk; Department of Environmental Quality, Office of Water Supply, 609 East Main Street, Richmond VA 23218; Phone: (804)-698-4180; E-mail: Brian.McGurk@deq.virginia.gov; Fax: (804) 698-4132. The public may review the draft permit and application at the DEQ office named above by appointment or may request copies of the documents from the contact person listed.



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VWP Individual Permit Number 96-0707

Effective Date:

Expiration Date:

VIRGINIA WATER PROTECTION PERMIT ISSUED PURSUANT TO THE STATE WATER CONTROL LAW AND SECTION 401 OF THE CLEAN WATER ACT

Based upon an examination of the information submitted by the owner, and in compliance with § 401 of the Clean Water Act as amended (33 USC 1341 et seq.) and the State Water Control Law and regulations adopted pursuant thereto, the State Water Control Board (board) has determined that there is a reasonable assurance that the activity authorized by this permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards. The board finds that the effect of the impact, together with other existing or proposed impacts to surface waters, will not cause or contribute to a significant impairment to state waters or fish and wildlife resources.

Permittee: Bedford Regional Water Authority

Address: 1723 Falling Creek Road, Bedford, Virginia 24523

Activity Location: The raw water intake located on Smith Mountain Lake, Bedford County, Virginia.

Activity Description: This permit authorizes the expansion of an existing intake structure and the operation of a surface water withdrawal from the intake located on Smith Mountain Lake.

The permitted activity shall be in accordance with this Permit Cover Page, Part I - Special Conditions, and Part II - General Conditions.

Director, Division of Land Protection and Revitalization

Date

Part I – Special Conditions**A. Authorized Activities**

1. This permit authorizes the withdrawal of surface water from Smith Mountain Lake in Bedford County.
2. This permit authorizes the total permanent impact to 0.69 acres of open water, resulting from the construction of a new pump station. The authorized impact area shall be as depicted on “Figure 2 – Plan and Cross Section” dated and received on June 11, 2011.
3. Authorized activities shall be conducted as described in the Joint Permit Application (JPA) dated March 11, 2011 and received by DEQ on March 16, 2011, and supplemental materials, revisions and clarifications received through November 14, 2012. The permit authorization and conditions are also based on additional submittals approved by DEQ.

B. Permit Term

1. This permit is valid for **fifteen (15) years** from the date of issuance. A new permit may be necessary for the continuance of the authorized activities, including water withdrawals, or any permit requirement that has not been completed, including compensation provisions. The permit term, including any granted extensions, shall not exceed 15 years.
2. The permittee shall notify DEQ in writing at least 270 calendar days prior to the expiration of this permit if an extension of the permit term is required.

C. Standard Project Conditions

1. The activities authorized by this permit shall be executed in such a manner that any impacts to beneficial uses are minimized. As defined in § 62.1-10(b) of the Code, "beneficial use" means both instream and offstream uses. Instream beneficial uses include, but are not limited to, the protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. Offstream beneficial uses include, but are not limited to, domestic (including public water supply), agricultural, electric power generation, commercial, and industrial uses. Public water supply uses for human consumption shall be considered the highest priority.
2. No maintenance activity shall cause more than minimal adverse effect on navigation.
3. Construction of the new intake structures, or any alterations of the existing intake structure or any appurtenant pilings and supports must take place between June 16 and February 14.
4. All excavation, dredging, or filling in surface waters shall be accomplished in a manner that minimizes bottom disturbance and turbidity.

5. Any construction, construction access, and demolition activities associated with this project shall be accomplished in a manner that minimizes construction materials or waste materials from entering surface waters, unless authorized by this permit. Wet, excess, or waste concrete shall be prohibited from entering surface waters.
6. Any fill material placed in surface waters shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.
7. Measures shall be employed at all times to prevent and contain spills of fuels, lubricants, or other pollutants into surface waters.
8. Temporary in-stream construction features such as cofferdams shall be made of non-erodible materials.
9. Virginia Water Quality Standards shall not be violated in any surface waters as a result of the project activities.
10. All required notifications and submittals shall be submitted to the DEQ office stated below, to the attention of the VWP permit manager, unless directed in writing by DEQ subsequent to the issuance of this permit:

Office of Water Supply
P.O. Box 1105
Richmond, Virginia 23218

11. All reports required by this permit and other information requested by DEQ shall be signed by the permittee or a person acting in the permittee's behalf, with the authority to bind the permittee. A person is a duly authorized representative only if both criteria below are met. If a representative authorization is no longer valid because of a change in responsibility for the overall operation of the facility, a new authorization shall be immediately submitted to DEQ.
 - a. The authorization is made in writing by the permittee.
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position.
12. All submittals shall contain the following signed certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate,

and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

13. Any fish kills or spills of fuels or oils shall be reported to DEQ immediately upon discovery at (540) 562-6814. If DEQ cannot be reached, the spill shall be reported to the Virginia Department of Emergency Management (DEM) at 1-800-468-8892 or the National Response Center (NRC) at 1-800-424-8802.
14. DEQ shall be notified in writing within 24 hours or as soon as possible on the next business day when potential environmentally threatening conditions are encountered which require debris removal or involve potentially toxic substances. Measures to remove the obstruction, material, or toxic substance or to change the location of any structure are prohibited until approved by DEQ.
15. The permittee shall notify the DEQ of any of any modifications of the intake structure. Any additional impacts, modifications, or changes shall be subject to individual permit review and/or modification of this permit.

D. Water Withdrawal, Water Intake, Water Conservation, Monitoring and Reporting Conditions

1. The maximum allowable withdrawal rates from Smith Mountain Lake are as follows (see table defining Tiers 1, 2 and 3 below):

Tiered Water Withdrawal Allocations based upon the previous year's reported water withdrawals:

Tier	Reported Annual Withdrawal (MG/year) ¹	AADF (mgd) ²	Maximum Daily Withdrawal (mgd) ³	Maximum Annual Withdrawal (MG) ⁴	Maximum Monthly Withdrawal (MG) ⁵
1	≤ 1282	4.17	8.67	1603	200
2	>1282 and ≤ 1690	5.50	11.43	2113	264
3 ⁶	>1690 and ≤ 2306	6.00	12.00	2306	288

1: Sum of all monthly withdrawals from the previous calendar year reported to DEQ by January 31st of each year (1282 and 1690 equal 80% of the tier 1 and tier 2 maximum annual withdrawal limits, respectively)

2: Average annual daily flow

3: ((AADF +5% for plant losses) * 1.8 peak day factor) + 10% margin of safety

4: (AADF + 5% for plant losses) * 366 days per year

5: ((AADF + 5% for plant losses) * 1.5 peak month factor) * 30.5 days per month

6: Tier 3 allocations contain the additional restriction described by condition I. D. 4 below.

2. If the permittee has completed construction of the Route 122 South Waterline (Moneta to Bedford) Extension by December 31, 2017, but has not completed construction of the Route 460 East Waterline (New London to Bedford) Extension by December 31, 2017, then the maximum allowable withdrawal rates in Part I.D.1 will automatically be reduced. For the purposes of this permit, the maximum allowable withdrawal rates will be as listed in Schedule A, Case B below.

screens are constructed less than 4 feet from the bottom of the lake. In the latter case the maximum through screen intake velocity shall not exceed 0.25 feet per second. In either case the intake screens shall be designed so that the screen openings are not wider than one millimeter.

6. Should the intake screens or other intake structures be located above the water or less than 5 feet below the record low water elevation in Smith Mountain Lake of 787.00 ft, then the location of the intake structure shall be clearly marked to avoid a hazard to boaters and other recreational users of Smith Mountain Lake.
7. The permittee shall submit as-built drawings of each intake within 90 days after construction that document the location of the intake screens relative to the lakebed and shoreline. This will serve as the basis to confirm which velocity requirements apply.
8. The permittee shall meter withdrawals from Smith Mountain Lake on a daily basis using flow totalizer technology to confirm that the withdrawals are in compliance with special conditions of this permit. Such meters shall produce volume determinations within plus or minus 10% of actual flows. A defective meter or other device must be repaired or replaced within 30 days. A defective meter is not grounds for not reporting the withdrawals. During any period when a meter is defective, generally accepted engineering practice shall be used to estimate withdrawals and the period during which the meter was defective must be clearly identified in the report.
9. The permittee shall monitor the bi-monthly flow of water sent from Smith Mountain Lake to the Central service area (in and around the Town of Bedford) as soon as the Route 122 South Waterline (Moneta to Bedford) Extension is constructed and operational. Every other month, the permittee shall record the cumulative volume of water used in the Central service area. The permittee shall provide this information annually along with their annual reporting of calculated monthly water withdrawals required by 9VAC25-200 et seq and shall make the records available to DEQ within 96 hours of receiving a request for those records. When the reported annual total flow from Smith Mountain Lake to the Central service area reaches or exceeds 50% of the projected end-of-permit annual demand for that service area (240 MG), then monitoring shall be performed monthly, rather than bi-monthly, for the duration of the permit period.
10. The permittee shall monitor the bi-monthly flow of water sent from Smith Mountain Lake to the Forest service area as soon as the Route 460 East Waterline (New London to Bedford) Extension is constructed and operational. Every other month, the permittee shall record the cumulative volume of water used in to the Forest service area. The permittee shall provide this information annually along with their annual reporting of calculated monthly water withdrawals required by 9VAC25-200 et seq and shall make the records available to DEQ within 96 hours of receiving a request for those records. When the reported annual total flow from Smith Mountain Lake to the Forest service area reaches or exceeds 50% of the projected end-of-permit annual demand for that service area (390 MG), then monitoring shall be performed monthly, rather than bi-monthly, for the duration of the permit period.
11. The permittee shall monitor the monthly flow of water sent from Smith Mountain Lake to Franklin County (the WWA-Westlake service area or for use within the WWA-220 North or WWA-Boones Mill). For each month that water is sent, the permittee shall record the cumulative volume

- of water sent to the Franklin County service areas. The permittee shall provide this information annually along with their annual reporting of monthly water withdrawals required by 9VAC25-200 et seq and shall make the records available to DEQ within 96 hours of receiving a request for those records.
12. The permittee shall monitor the monthly flow of water purchased from the City of Lynchburg for use within the Forest service area or for use within the Bedford City service area. For each month that water is purchased, the permittee shall record the cumulative volume of water purchased. The permittee shall provide this information annually along with their annual reporting of monthly water withdrawals required by 9VAC25-200 et seq and shall make the records available to DEQ within 96 hours of receiving a request for those records.
 13. The permittee shall prepare and submit for DEQ approval a plan for monitoring and reporting water withdrawals and transfers to the Central, Forest, and Franklin County service areas. This plan must be submitted to DEQ within 120 days of this permit modification and should describe the methodology or methodologies to be used to monitor and report monthly flows from Smith Mountain Lake to each service area. The plan shall include, at a minimum, the following:
 - a. Method(s) to calculate and/or estimate monthly flows sent to each service area from Smith Mountain Lake
 - b. Method(s) proposed to calculate and/or estimate monthly flow of water from the City of Lynchburg to each of BCPSA's service areas
 - c. An alternative procedure to be used whenever the primary monitoring method is not functioning or available
 - d. The method(s) proposed to calculate and/or estimate monthly flows shall be capable of producing volume determinations within plus or minus 10% of actual flows. A defective meter or other device must be repaired or replaced within 30 days. A defective meter is not grounds for not reporting flows. During any period when a meter is defective, generally accepted engineering practice shall be used to estimate flows and the period during which the meter was defective must be clearly identified in the annual report.
 14. When a drought emergency is declared by the Commonwealth of Virginia in the Bedford or Franklin County portion of the Roanoke River Drought Evaluation Region, or by Bedford or Franklin Counties in accordance with either County's Drought Management Ordinance, the permittee shall implement either the provisions directed by the Commonwealth, the declaring County's Drought Management Ordinance or the mandatory conservation measures detailed in Attachment A of this permit, whichever is most restrictive. The permittee shall be responsible for determining when drought emergencies are declared. DEQ may require documentation that mandatory conservation measures were implemented during declared drought emergencies.
 15. Water withdrawal monitoring and reporting activities shall comply with this section, Part I.C, and Part II. All records and information that result from the monitoring and reporting activities required by this permit, including any records of maintenance activities to the withdrawal system, shall be retained for the life of the permit. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or as requested by the State Water Control Board.
 16. For each day that water is withdrawn, the permittee shall monitor and record the date and the volume of water withdrawn that day. The permittee shall retain those records in accordance with

General Condition G.3. For all permittees whose average daily withdrawal during any single month exceeds 10,000 gallons per day, the water withdrawals shall be reported to DEQ by January 31st of the next year, as required under State Water Control Board (SWCB) Water Withdrawal Reporting Regulation (9 VAC 25-200 et seq.). The annual monitoring report shall contain the following information:

- a. the permittee's name and address,
 - b. the sources and locations of water withdrawal,
 - c. the cumulative volume of water withdrawn each month and for the calendar year,
 - d. the average daily volume (million gallons per day) of water withdrawn as calculated the last day of the monitoring period,
 - e. the largest single day withdrawal volume (million gallons) that occurred in the year and the month in which it occurred,
 - f. the method of withdrawal measurement,
 - g. the information listed in Parts I. D. 9 through 12.
17. Whenever a Trigger 3 drought event is declared at Appalachian Power Company's Smith Mountain Project, as defined within the Water Management Plan portion of that Project's Federal Energy Regulatory Commission (FERC) license P-2210, the permittee must initiate conservation measures as listed below:
- a. Review and be prepared to implement Drought Response and Contingency Plans at the appropriate time.
 - b. Participate, as appropriate, in regional and local coordination for the management of water resources.
 - c. Stay informed on drought conditions and advisories
 - d. Participate, as appropriate, in regional and local coordination for the management of water resources.
 - e. Stay informed on drought conditions and advisories
 - f. Project water needs and available water supply for a ninety-day period from the declaration of the Trigger 3 event
 - g. Assess vulnerability to the drought conditions and adjust water usage to prolong available supply.
 - h. Inspect water delivery system components
 - i. It is the permittee's responsibility to coordinate with Appalachian Power Company regarding the initiation and cessation of Trigger 3 drought events.

Part II – General Conditions**A. Duty to Comply**

The permittee shall comply with all conditions of the VWP permit. Nothing in the VWP permit regulations shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and prohibitions. Any VWP permit violation is a violation of the law, and is grounds for enforcement action, VWP permit termination, revocation, modification, or denial of an application for a VWP permit extension or reissuance.

B. Duty to Cease or Confine Activity

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP permit has been granted in order to maintain compliance with the conditions of the VWP permit.

C. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any impacts in violation of the permit which may have a reasonable likelihood of adversely affecting human health or the environment.

D. VWP Permit Action

1. A VWP permit may be modified, revoked and reissued, or terminated as set forth in 9 VAC 25-210 et seq.
2. If a permittee files a request for VWP permit modification, revocation, or termination, or files a notification of planned changes, or anticipated noncompliance, the VWP permit terms and conditions shall remain effective until the request is acted upon by the board. This provision shall not be used to extend the expiration date of the effective VWP permit. If the permittee wishes to continue an activity regulated by the VWP permit after the expiration date of the VWP permit, the permittee must apply for and obtain a new VWP permit or comply with the provisions of 9 VAC 25-210-185 (VWP Permit Extension).

VWP permits may be modified, revoked and reissued or terminated upon the request of the permittee or other person at the board's discretion, or upon board initiative to reflect the requirements of any changes in the statutes or regulations, or as a result of VWP permit noncompliance as indicated in the Duty to Comply subsection above, or for other reasons listed in 9 VAC 25-210-180 (Rules for Modification, Revocation and Reissuance, and Termination of VWP permits).

E. Inspection and Entry

Upon presentation of credentials, any duly authorized agent of the board may, at reasonable times and under reasonable circumstances:

1. Enter upon any permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the VWP permit conditions;
2. Inspect any facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP permit; and
3. Sample or monitor any substance, parameter or activity for the purpose of ensuring compliance with the conditions of the VWP permit or as otherwise authorized by law.

F. Duty to Provide Information

1. The permittee shall furnish to the board any information which the board may request to determine whether cause exists for modifying, revoking, reissuing or terminating the VWP permit, or to determine compliance with the VWP permit. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.
2. Plans, specifications, maps, conceptual reports and other relevant information shall be submitted as required by the board prior to commencing construction.

G. Monitoring and Records Requirements

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.
2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the VWP permit, and records of all data used to complete the application for the VWP permit, for a period of at least three years from the date of the expiration of a granted VWP permit. This period may be extended by request of the board at any time.
4. Records of monitoring information shall include:
 - a. The date, exact place and time of sampling or measurements;

- b. The name of the individuals who performed the sampling or measurements;
- c. The date and time the analyses were performed;
- d. The name of the individuals who performed the analyses;
- e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;
- f. The results of such analyses; and
- g. Chain of custody documentation.

H. Transferability

This VWP permit may be transferred to a new permittee only by modification to reflect the transfer, by revoking and reissuing the permit, or by automatic transfer. Automatic transfer to a new permittee shall occur if:

1. The current permittee notifies the board within 30 days of the proposed transfer of the title to the facility or property;
2. The notice to the board includes a written agreement between the existing and proposed permittee containing a specific date of transfer of VWP permit responsibility, coverage and liability to the new permittee, or that the existing permittee will retain such responsibility, coverage, or liability, including liability for compliance with the requirements of any enforcement activities related to the permitted activity; and
3. The board does not within the 30-day time period notify the existing permittee and the new permittee of its intent to modify or revoke and reissue the VWP permit.

I. Property rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize injury to private property or any invasion of personal rights or any infringement of federal, state or local law or regulation.

J. Reopener

Each VWP permit shall have a condition allowing the reopening of the VWP permit for the purpose of modifying the conditions of the VWP permit to meet new regulatory standards duly adopted by the board. Cause for reopening VWP permits includes, but is not limited to when the circumstances on which the previous VWP permit was based have materially and substantially changed, or special

studies conducted by the board or the permittee show material and substantial change, since the time the VWP permit was issued and thereby constitute cause for VWP permit modification or revocation and reissuance.

K. Compliance with State and Federal Law

Compliance with this VWP permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other state law or regulation or under the authority preserved by § 510 of the Clean Water Act.

L. Severability

The provisions of this VWP permit are severable.

M. Permit Modification

A VWP permit may be modified, but not revoked and reissued except when the permittee agrees or requests, when any of the following developments occur:

1. When additions or alterations have been made to the affected facility or activity which require the application of VWP permit conditions that differ from those of the existing VWP permit or are absent from it;
2. When new information becomes available about the operation or activity covered by the VWP permit which was not available at VWP permit issuance and would have justified the application of different VWP permit conditions at the time of VWP permit issuance;
3. When a change is made in the promulgated standards or regulations on which the VWP permit was based;
4. When it becomes necessary to change final dates in schedules due to circumstances over which the permittee has little or no control such as acts of God, materials shortages, etc. However, in no case may a compliance schedule be modified to extend beyond any applicable statutory deadline of the Act;
5. When changes occur which are subject to "reopener clauses" in the VWP permit; or
6. When the board determines that minimum instream flow levels resulting from the permittee's withdrawal of water are detrimental to the instream beneficial use and the withdrawal of water should be subject to further net limitations or when an area is declared a Surface Water Management Area pursuant to §§ 62.1-242 through 62.1-253 of the Code of Virginia, during the term of the VWP permit.

N. Permit Termination

After notice and opportunity for a formal hearing pursuant to Procedural Rule No. 1 (9 VAC 25-230-100) a VWP permit can be terminated for cause. Causes for termination are as follows:

1. Noncompliance by the permittee with any condition of the VWP permit;
2. The permittee's failure in the application or during the VWP permit issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;
3. The permittee's violation of a special or judicial order;
4. A determination by the board that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by VWP permit modification or termination;
5. A change in any condition that requires either a temporary or permanent reduction or elimination of any activity controlled by the VWP permit; and
6. A determination that the permitted activity has ceased and that the compensatory mitigation for unavoidable adverse impacts has been successfully completed.

O. Civil and Criminal Liability

Nothing in this VWP permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and Hazardous Substance Liability

Nothing in this VWP permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Unauthorized Discharge of Pollutants

Except in compliance with this VWP permit, it shall be unlawful for the permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;
2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, to animal or aquatic life, to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses;
4. On or after October 1, 2001 conduct the following activities in a wetland:
 - a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;
 - b. Filling or dumping;
 - c. Permanent flooding or impounding;
 - d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

R. Permit Extension

Any permittee with an effective VWP permit for an activity that is expected to continue after the expiration date of the VWP permit, without any change in the activity authorized by the VWP permit, shall submit written notification requesting an extension. The permittee must file the request prior to the expiration date of the VWP permit. Under no circumstances will the extension be granted for more than 15 years beyond the original effective date of the VWP permit. If the request for extension is denied, the VWP permit will still expire on its original date and, therefore, care should be taken to allow for sufficient time for the board to evaluate the extension request and to process a full VWP permit modification, if required.

Attachment A- Water Conservation**Mandatory Non-essential Water Use Restrictions**

The following non-essential water uses will be prohibited during periods of declared drought emergencies. Please note the exceptions that follow each prohibited use. These prohibitions and exceptions will apply to uses from all sources of water and will only be effective when the Governor of Virginia or the Virginia Drought coordinator declares a Drought Emergency. Water use restrictions shall not apply to the agricultural production of food or fiber, the maintenance of livestock including poultry, nor the commercial production of plant materials, *provided that best management practices are applied to assure the minimum amount of water is utilized.*

1. *Unrestricted irrigation of lawns is prohibited.*

- Newly sodded and seeded areas may be irrigated to establish cover on bare ground at the minimum rate necessary for no more than a period of 60 days. Irrigation rates may not exceed one inch of applied water in any 7-day period.
- Gardens, bedding plants, trees, shrubs and other landscape materials may be watered with hand held containers, hand held hoses equipped with an automatic shutoff device, sprinklers or other automated watering devices at the minimum rate necessary but in no case more frequently than twice per week. Irrigation should not occur during the heat of the day.
- All allowed lawn irrigation must be applied in a manner to assure that no runoff, puddling or excessive watering occurs.
- Irrigation systems may be tested after installation, routine maintenance or repair for no more than ten minutes per zone.

2. *Unrestricted irrigation of golf courses is prohibited.*

- Tees and greens may be irrigated between the hours of 9:00 p.m. and 10:00 a.m. at the minimum rate necessary.
- Localized dry areas may be irrigated with a hand held container or hand held hose equipped with an automatic shutoff device at the minimum rate necessary.
- Greens may be cooled by syringing or by the application of water with a hand held hose equipped with an automatic shutoff device at the minimum rate necessary.
- Fairways may be irrigated between the hours of 9:00 p.m. and 10:00 a.m. at the minimum rate necessary not to exceed one inch of applied water in any ten-day period.

- Fairways, tees and greens may be irrigated during necessary overseeding or resodding operations in September and October at the minimum rate necessary. Irrigation rates during this restoration period may not exceed one inch of applied water in any seven-day period.
- Newly constructed fairways, tees and greens and areas that are re-established by sprigging or sodding may be irrigated at the minimum rate necessary not to exceed one inch of applied water in any seven-day period for a total period that does not exceed 60 days.
- Fairways, tees and greens may be irrigated without regard to the restrictions listed above so long as:
 - The only water sources utilized are water features whose primary purpose is stormwater management;
 - Any water features utilized do not impound permanent streams;
 - During declared Drought Emergencies these water features receive no recharge from other water sources such as ground water wells, surface water intakes, or sources of public water supply; and,
 - All irrigation occurs between 9:00 p.m. and 10:00 a.m.
- All allowed golf course irrigation must be applied in a manner to assure that no runoff, puddling or excessive watering occurs.
- Rough areas may not be irrigated.

3. ***Unrestricted irrigation of athletic fields is prohibited.***

- Athletic fields may be irrigated between the hours of 9:00 p.m. and 10:00 a.m. at a rate not to exceed one inch per application or more than a total of one inch in multiple applications during any ten-day period. All irrigation water must fall on playing surfaces with no outlying areas receiving irrigation water directly from irrigation heads.
- Localized dry areas that show signs of drought stress and wilt (curled leaves, foot-printing, purpling) may be syringed by the application of water for a cumulative time not to exceed fifteen minutes during any twenty four hour period. Syringing may be accomplished with an automated irrigation system or with a hand held hose equipped with an automatic shutoff device at the minimum rate necessary.
- Athletic fields may be irrigated between the hours of 9:00 p.m. and 10:00 a.m. during necessary overseeding, sprigging or resodding operations at the minimum rate necessary for a period that does not exceed 60 days. Irrigation rates during this restoration period may not exceed one inch of applied water in any seven-day period. Syringing is permitted during signs of drought stress and wilt (curled leaves, foot-printing, purpling).

- All allowed athletic field irrigation must be applied in a manner to assure that no runoff, puddling or excessive watering occurs.
 - Irrigation is prohibited on athletic fields that are not scheduled for use within the next 120-day period.
 - Water may be used for the daily maintenance of pitching mounds, home plate areas and base areas with the use of hand held containers or hand held hoses equipped with an automatic shutoff device at the minimum rate necessary.
 - Skinned infield areas may utilize water to control dust and improve playing surface conditions utilizing hand held containers or hand held hoses equipped with an automatic shutoff device at the minimum rate necessary no earlier than two hours prior to official game time.
4. ***Washing paved surfaces such as streets, roads, sidewalks, driveways, garages, parking areas, tennis courts, and patios is prohibited.***
- Driveways and roadways may be pre-washed in preparation for recoating and sealing.
 - Tennis courts composed of clay or similar materials may be wetted by means of a hand-held hose equipped with an automatic shutoff device at the minimum rate necessary for maintenance. Automatic wetting systems may be used between the hours of 9:00 p.m. and 10:00 a.m. at the minimum rate necessary.
 - Public eating and drinking areas may be washed using the minimum amount of water required to assure sanitation and public health.
 - Water may be used at the minimum rate necessary to maintain effective dust control during the construction of highways and roads.
5. ***Use of water for washing or cleaning of mobile equipment including automobiles, trucks, trailers and boats is prohibited.***
- Mobile equipment may be washed using hand held containers or hand held hoses equipped with automatic shutoff devices provided that no mobile equipment is washed more than once per calendar month and the minimum amount of water is utilized.
 - Construction, emergency or public transportation vehicles may be washed as necessary to preserve the proper functioning and safe operation of the vehicle.
 - Mobile equipment may be washed at car washes that utilize reclaimed water as part of the wash process or reduce water consumption by at least 10% when compared to a similar period when water use restrictions were not in effect.

- Automobile dealers may wash cars that are in inventory no more than once per week utilizing hand held containers and hoses equipped with automatic shutoff devices, automated equipment that utilizes reclaimed water as part of the wash process, or automated equipment where water consumption is reduced by at least 10% when compared to a similar period when water use restrictions were not in effect.
 - Automobile rental agencies may wash cars no more than once per week utilizing hand held containers and hoses equipped with automatic shutoff devices, automated equipment that utilizes reclaimed water as part of the wash process, or automated equipment where water consumption is reduced by at least 10% when compared to a similar period when water use restrictions were not in effect.
 - Marine engines may be flushed with water for a period that does not exceed 5 minutes after each use.
6. *Use of water for the operation of ornamental fountains, artificial waterfalls, misting machines, and reflecting pools is prohibited.*
- Fountains and other means of aeration necessary to support aquatic life are permitted.
7. *Use of water to fill and top off outdoor swimming pools is prohibited.*
- Newly built or repaired pools may be filled to protect their structural integrity.
 - Outdoor pools operated by commercial ventures, community associations, recreation associations, and similar institutions open to the public may be refilled as long as:
 - Levels are maintained at mid-skimmer depth or lower;
 - Any visible leaks are immediately repaired;
 - Backwashing occurs only when necessary to assure proper filter operation;
 - Deck areas are washed no more than once per calendar month (except where chemical spills or other health hazards occur);
 - All water features (other than slides) that increase losses due to evaporation are eliminated; and
 - Slides are turned off when the pool is not in operation.
 - Swimming pools operated by health care facilities used in relation to patient care and rehabilitation may be filled or topped off.

DRAFT

DRAFT

DRAFT VWP Individual Permit No. 96-0707

Attachment A
DRAFT – 7/11/13
Page 5 of 5

- Indoor pools may be filled or topped off.
 - Residential swimming pools may be filled only to protect structural integrity, public welfare, safety and health and may not be filled to allow the continued operation of such pools.
8. *Water may be served in restaurants, clubs, or eating-places only at the request of customers.*

DRAFT

DRAFT

DRAFT