



**U.S. Army Corps
Of Engineers**
Norfolk District

Fort Norfolk, 803 Front Street
Norfolk, Virginia 23510-1096

DEPARTMENT OF THE ARMY PERMIT

Permittee: Wythe County Board of Supervisors
345 South Sixth Street
Administration Building-Suite A
Wytheville, Virginia 23482

Permit No.: 11-V0171; 2010-00683

Issuing Office: Norfolk District, Corps of Engineers

Note: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below pursuant to:

- () Section 10 of the Rivers and Harbors Act of 1899
(33 U.S.C. 403).
- (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
- () Section 103 of the Marine Protection, Research and
Sanctuaries Act of 1972 (33 U.S.C. 1413).

Project Description: The applicant proposes to complete construction of an industrial park known as "Progress Park". The project consists of 4 phases. Phase I of the project consists of the construction of an approximately 166-acre lot (Lot 24). Phase II consists of the construction of lots 32, 35, 36, and 41. Phase III consists of the construction of lots 1, 10, 19, and 20. Phase IV consists of the construction of lots 2, 3, 5, 7, 8, 9, and 13-17. Total proposed permanent impacts for completion of the project are 0.63 acre of emergent wetlands, 3,388 linear feet of stream channel, and 0.192 acre of open water. Total proposed temporary impacts are 1.02 acre of wetlands and 956 linear feet of stream channel. Proposed impacts are for the construction of building pads, railroad extension, roads, and sewer line crossings. To mitigate for the proposed wetland impacts, the applicant proposes to purchase 0.6 wetland credit from the Trust Fund. To mitigate for 0.192 acre of open water impacts and for 2,076 linear feet of stream impacts associated with Phase I of the project, the applicant proposes to restore 2,233 linear feet of a tributary to Crab Creek (a tributary to the New River). The stream mitigation site is located within Diamond Hills Park, in the Town of Christiansburg. To mitigate for the proposed impacts to 1,312 linear feet of stream channel associated with Phases II-IV of the project, the applicant proposes to restore 1,876 linear feet of Crab Creek. In addition, the applicant proposes to preserve, in perpetuity by deed restriction,

certain buffer around the on-site streams not proposed for impact. The applicant also proposes to impact 0.07 acre of isolated emergent wetlands and 0.38 acre of isolated open water.

Previously authorized permanent impacts for the existing phases of this project are 4.4 acres of emergent wetlands and 1,548 linear feet of stream channel. These impacts were mitigated for on-site (wetlands and streams) and by making a monetary contribution to the Trust Fund. Previously authorized temporary stream impacts are 25 linear feet. By letter dated March 3, 2011, the Corps informed the applicant that the on-site stream mitigation is not in compliance with the Corps permit conditions (01-V2065). Because all wetland and stream impacts within Progress Park are accounted for cumulatively, this authorization includes conditions to ensure success of the on-site stream mitigation.

Project Location: The project site is located east of the Town of Wytheville, north of Reed Creek, at the intersection of E. Lee Trinkle Drive and Peppers Ferry Road in Wythe County, Virginia. The project site drains into Reed Creek, a tributary to the New River.

Project Specific Conditions:

1. Prior to the commencement of any work authorized by this permit, you shall advise the project manager, Dr. Silvia B. Gazzera in writing at: Corps of Engineers, Richmond Field Office, 9100 Arboretum Parkway, Suite 235, Richmond, Virginia 23236, of the time the authorized activity will commence and the name and telephone number of all contractors or other persons performing the work. A copy of this permit and drawings must be provided to the contractor and made available to any regulatory representative during an inspection of the project site.
2. The time limit for completing the work authorized ends on March 6, 2016. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached. Should you be unable to complete the authorized activity in the time limit provided, you must submit your request for a time extension to this office for consideration at least one month before the permit expiration date.
3. 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 permit terms and conditions.
4. No work in wetlands and waters hereby authorized shall commence until the Corps has reviewed and approved final construction plans for the work hereby authorized.
5. No work in wetlands hereby authorized shall commence until the Corps has received evidence that you have purchased the required wetlands mitigation credits.
6. A legally binding restrictive covenant shall be placed on the remaining on certain streams

and their buffers (preservation areas) not hereby authorized for impact, requiring their preservation so that they shall remain in their natural state in perpetuity. The restrictive covenant shall be submitted to Dr. Silvia Gazzera at 9100 Arboretum Parkway, Suite 235, Richmond, Virginia 23236, for review and approval prior to recordation.

7. Appropriate actions shall be taken to record the restrictive covenants with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property. Proof of recordation shall be received by the Corps prior commencing any work hereby authorized.
8. Signs denoting the preservation areas shall be erected every 200 feet and routinely maintained.
9. During construction activities, all waters of the U.S. not hereby proposed for impact shall be clearly flagged in the field.
10. The permittee shall comply with all the Stipulations contained in the Programmatic Agreement entitled "Programmatic Agreement among the Department of Commerce Economic Development Administration, the USDA Rural Development, Wythe County and the Virginia Department of Historic Resources regarding the Wythe County Progress Park in Wythe County, Virginia."

Crab Creek Stream Mitigation:

1. Stream compensatory mitigation for the proposed impacts for Phase I of the project will consist of restoring 2,233 linear feet of an unnamed tributary to Crab Creek. Stream compensatory mitigation for the proposed impacts for Phases II-IV of the project will consist of restoring 1,876 linear feet of Crab Creek.
2. A legally binding restrictive covenant shall be placed on the stream mitigation sites, requiring their preservation so that they shall remain in their restored state in perpetuity. The restrictive covenant shall be submitted to Dr. Silvia Gazzera at 9100 Arboretum Parkway, Suite 235, Richmond, Virginia 23236, for review and approval prior to recordation.
3. Appropriate actions shall be taken to record the restrictive covenants with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property prior to any impacts to waters of the U.S. for Phase I and Phase II-IV of the project.
4. The stream restoration shall be performed in accordance with the preliminary plans prepared by Balzer entitled "Diamond Hills, Stream Restoration, Future Concept Plan, Christiansburg, Virginia" dated August 23, 2010 and final construction plans prepared by Balzer entitled "Diamond Hill Park, Stream Restoration, Town of Christiansburg, Virginia" dated May 17, 2011 and received by the Corps on June 21, 2011.

5. A long term management and maintenance plan for the stream restoration site shall be submitted to the Corps for review and approval prior to commencing any work hereby authorized.
6. A formal documented commitment from Wythe County ensuring that funds are available to construct, monitor and maintain the stream restoration sites shall be submitted to the Corps prior to commencing any work hereby authorized.
7. A stream restoration schedule shall be submitted to the Corps for review and approval prior to commencing any work hereby authorized.
8. Stream restoration shall commence within 180 days from commencing any work in wetlands and streams hereby authorized for Phase I and Phases II-IV respectively.
9. If at the time of the last monitoring report the mitigation site is not well established, the Corps may require alternative compensatory mitigation.
10. Stream monitoring reports shall allow for year to year comparison and shall include stream habitat assessment.
11. In-stream work shall be conducted in the dry.
12. An environmental representative shall be present during all in stream construction activities. The representative shall be responsible for adherence to the final plan and specification and shall advise on specific techniques for constructing in stream structures during site activities.

Stormwater Management

1. All erosion and sediment controls, except as shown on the attached permit drawings, will be located in upland areas.
2. All stormwater discharges will be dissipated and spread prior to entry into wetlands, streams, and open water.
3. All stormwater will be discharged in line with (not perpendicular to) existing flow pattern.

On-Site Stream Restoration

1. A remedial plan for the on-site stream mitigation for the stream impact associated with the previous phase of Progress Park shall be submitted to the Corps for review and approval prior to commencing any work hereby authorized.
2. An additional 5-year monitoring plan for the on-site stream restoration must be submitted to the Corps for review and approval prior to commencing any work hereby authorized.

Pre-Construction Meeting/Requirements

1. Conduct a pre-construction meeting with the builders to identify the limits of the on-site preservation areas in the field and to emphasize the importance of avoiding and minimizing impacts to those areas. The most landward limit, or the limit nearest an area of authorized impact of all wetlands, shall be marked in highly visible manner in the field prior to any land disturbing activity.
2. A plan shall be implemented to educate builders, contractors, and real estate agents about the preservation areas and the forthcoming restrictive covenant prior to any land disturbing activity.
3. The limits of all the preservation areas shall be shown on all construction plans, subdivision plats, and record plats.
4. This letter shall be attached to the construction plans for the project for distribution to all contractors and subcontractors and builders.
5. Should sediments accrue in the preservation areas during construction of the project, compensatory mitigation might be required at a minimum of a one to one ratio, if the Corps determines that removal of sediments and restoration is not feasible.

Utility Line Crossings

1. Minimize disturbance in waters and wetlands to the greatest extent practicable.
2. Require that all heavy equipment operate on protective mats in wetlands.
3. Sidecast topsoil (top 6 to 12 inches) excavated from wetlands separately for replacement in wetlands after backfilling utility line trenches.
4. Restore pre-construction contours in wetlands after utility line installation.
5. Remove all excess material to an appropriate upland disposal area.
6. Seed all denuded wetland areas with a non-invasive, non-perennial mixture, or simply, annual rye grass.

Special Conditions:

All project specific conditions listed above are special conditions of this permit.

1. No discharge of dredged or fill material may consist of unsuitable material (e.g.: trash, debris, car bodies, asphalt etc.) and material discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

2. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.
3. Strict sediment and erosion control measures consistent with those contained in the standards and criteria of the Virginia Sediment and Erosion Control Handbook shall be used. Disposal sites for any excavated material as part of the project shall be located in a non-wetland area and shall be retained with silt fence and/or hay bales.
4. The construction or work authorized by this permit will be conducted in a manner so as to minimize any degradation of water quality and/or damage to aquatic life. Also, you will employ measures to prevent or control spills of fuels or lubricants from entering the waterway.
5. Any heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance.
6. Failure to comply with the terms and conditions of this permit can result in enforcement actions against the permittee and/or contractor.
7. 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.
8. All dredging and/or filling will be done so as to minimize disturbance of the bottom or turbidity increases in the water, which tend to degrade water quality and damage aquatic life.
9. Your use of the permitted activity must not interfere with the public's right to reasonable navigation on all navigable waters of the United States.

General Conditions

1. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 3 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
2. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

3. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
4. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
5. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.
6. 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 structural 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 alternation.

Further Information:

1. Limits of this authorization:
 - a. This permit does not obviate the need to obtain other Federal, state or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal projects.
2. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
3. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

4. **Reevaluation of Permit Decision.** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 3 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

5. **Extensions.** Project Specific Condition 2 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as a permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.




(Permittee)

3-16-12

(Date)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



Lynette R. Rhodes

Chief, Southern Virginia Regulatory Section

March 6, 2012 16 March 2012

(Date)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new

owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(Transferee)

(Date)

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