



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Northern Virginia Regional Office
13901 Crown Court
Woodbridge, VA 22193-1453
(703) 583-3800 fax (703) 583-3801
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Robert G. Burnley
Director

Jeffery A. Steers
Regional Director

December 12, 2003

Mr. Gary VanAlstyne
Belmont Land, LP
c/o Toll Brothers, Inc.
20445 Stubble Road, Suite 155
Ashburn, Virginia 20147

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Re: Virginia Water Protection (VWP) Individual Permit Modification No. 98-V1414, Belmont Plantation, Loudoun County, Virginia, Final VWP Individual Permit Modification

Dear Mr. VanAlstyne:

Pursuant to the VWP Permit Program Regulation 9 VAC 25-210-10 and § 401 of the Clean Water Act Amendments of 1977, Public Law 95-217, the Department of Environmental Quality (DEQ) has granted a modification of the VWP individual permit for the "Belmont Plantation-Phases 1,2,3 and 4" project. The proposed project results in permanent impacts to 10.80 acres of state waters, including permanent impacts to 1.61 acres of palustrine forested wetlands (PFO), 1.87 acres of palustrine emergent wetlands (PEM), 4.03 acres (7787 linear feet) of intermittent stream channel, and temporary impacts to 3.29 acres of palustrine open water (POW) within the Beaverdam Run watershed. Permanent impacts to state waters will be compensated through the on-site creation of 4.52 acres of PFO, 2.86 acres of PEM, and 7.50 acres of POW, the on-site restoration of 3021 linear feet of intermittent stream channel, the on-site preservation of approximately 2.60 acres of PFO, 2.37 acres (9565 linear feet) of intermittent stream channel and 14 acres of riparian buffer and a contribution of \$116,704.00 to the Virginia Wetlands Restoration Trust Fund.

The provisions and conditions contained therein according to §401(a)(1) of the Clean Water Act require that:

"Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge in the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the

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discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of this Act....”

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 calendar days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a notice of appeal in accordance with the Rules of the Supreme Court of Virginia with the Director, Department of Environmental Quality. In the event that this decision is served on you by mail, three calendar days are added to that period. Refer to Part 2A of the Rules of the Supreme Court of Virginia for additional requirements governing appeals from administrative agencies.

Alternatively, any owner under §§ 62.1-4.16, 62.1-44.17 and 62.1-44.19 of the State Water Control Law aggrieved by any action that the board has taken without a formal hearing, or by inaction of the board, may demand in writing a formal hearing of such owner's grievance, provided a petition requesting such hearing is filed with the board. Said petition must meet the requirements set forth in § 1.23(b) of the board's Procedural Rule No. 1. In cases involving actions of the board, such petition must be filed within 30 calendar days after notice of such action is mailed to such owner by certified mail.

If you have any questions, please contact Jeanne C. Richardson at (73) 583-3940.

Sincerely,



Jeffery A. Steers
Regional Director

Enclosures: Permit Cover Page, Part I - Special Conditions, Part II - General Conditions

cc: Mr. Ron Stouffer, U.S. Army Corps of Engineers, Northern Virginia Field Office
Mr. Justin Worrell, Virginia Marine Resources Commission
Mr. Brad Helmandollar, Williamsburg Environmental Group, Inc., Richmond



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VWP Individual Permit Number 98-V1414

Effective Date: December 20, 2001

Major Modification Date: December 12, 2003

Expiration Date: December 20, 2016

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 1251 et seq.) and the State Water Control Law and regulations adopted pursuant thereto, the 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 wetlands, will not cause or contribute to a significant impairment to state waters or fish and wildlife resources.

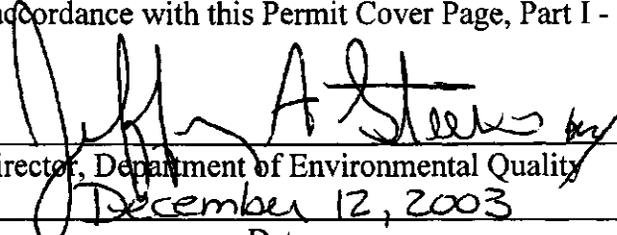
Permittee: Belmont Land, LP, c/o Toll Brothers, Inc.

Address: 20445 Stubble Road, Suite 155, Ashburn, Virginia 20147

Activity Location: Adjacent to Route 7 (Harry Byrd Highway), between Route 641 (Ashburn Road) and Route 659 (Belmont Ridge Road), southeast of Leesburg in Loudoun County

Activity Description: The permittee proposes to construct a master-planned residential development and associated infrastructure, known as "Belmont Plantation - Phases 1, 2, 3, and 4". The proposed project will impact approximately 10.80 acres of state waters, including permanent impacts to 1.61 acres of palustrine forested wetlands (PFO), 1.87 acres of palustrine emergent wetland (PEM), 4.03 acres (7787 linear feet) of intermittent stream channel, and temporary impacts to 3.29 acres of palustrine open water (POW) within the Beaverdam Run watershed. The permittee will compensate for impacts to state waters through the on-site creation of 4.52 acres of PFO, 2.86 acres of PEM, and 7.50 acres of POW, the on-site restoration of 3021 linear feet of intermittent stream channel, the on-site preservation of approximately 2.60 acres of PFO, 2.37 acres (9,565 linear feet) of intermittent stream channel, and 14 acres of riparian buffer and a contribution of \$116,704.00 to the Virginia Wetlands Restoration Trust Fund.

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



Director, Department of Environmental Quality

December 12, 2003

Date

Part I - Special Conditions

A. Authorized Activities

1. This permit authorizes the filling, excavation, and flooding of no more than 10.80 acres of state waters as indicated in the Joint Permit Application dated July 31, 1998, Joint Permit Application Modification Request dated March 23, 2000, supplemental information dated August 6, 2001 and September 27, 2001, and the Major Modification request dated November 27, 2002. Impacts to state waters total, approximately, 10.80 acres, including permanent impacts to 1.61 acres of palustrine forested wetlands (PFO), 1.87 acres of palustrine emergent wetlands (PEM), 4.03 acres (7787 linear feet) of intermittent stream channel, and temporary impacts to 3.29 acres of palustrine open water (POW).
2. Project activities, including any conditions and limitations, described in the Joint Permit Application and any supplemental materials submitted by the applicant, or authorized agent, shall be adhered to for the term of this permit.
3. The permittee shall notify the Department of Environmental Quality, Northern Virginia Regional Office of any additional impacts to State waters, including wetlands, associated with this project. Any additional impacts to State waters, including wetlands, shall be subject to individual permit review or modification of this permit, and compensatory mitigation will be required.
4. This permit is valid for fifteen (15) years from the date of issuance. Re-issuance of the permit may be necessary if any portion of the authorized activities or any permit requirement (including compensatory mitigation provisions) have not been completed. The original permit term in addition to the extension, cannot exceed the **maximum of 15 years**. The extension may be requested through written notification to the Department of Environmental Quality, Northern Virginia Regional Office, provided that there are no changes in the authorized activities.

B. Standard Project Conditions:

1. The activities authorized by this permit shall be executed in a manner to minimize any adverse impact on stream beneficial uses, as defined in § 62.1-10(b) of the Code.
2. The permittee shall employ measures to prevent spills of fuels, lubricants, or other pollutants into State waters.
3. All dredging and/or filling in State waters shall be accomplished in a manner that minimizes stream bottom disturbances and turbidity increases.
4. No activity shall substantially disrupt the movement of aquatic life indigenous to the water body, including those species that normally migrate through the area, unless the primary purpose of the activity is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. No activity may cause more than minimal adverse effect on navigation. Furthermore the activity must not impede the passage of normal or expected high flows and the structure or discharge must withstand expected high flows. Flows downstream of the project area shall be maintained to protect all uses.

5. All construction, construction access (for example, cofferdams, sheetpiling, and causeways) and demolition activities associated with this project shall be accomplished in a manner that minimizes construction or waste materials from entering surface waters to the maximum extent practicable, unless authorized by this permit.
6. Immediately downstream of the project area, water quality standards shall not be violated as a result of the construction activities.
7. Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992. These controls shall be placed prior to clearing and grading and maintained in good working order to minimize impacts to state waters. These controls shall remain in place until the area stabilizes.
8. Any exposed slopes or streambanks must be stabilized immediately upon completion of the project at each water body. All denuded areas shall be properly stabilized in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.
9. Untreated stormwater runoff shall be prohibited from directly discharging into any surface waters. Appropriate best management practices (BMP) shall be deemed suitable treatment prior to discharge into state waters.
10. No machinery may enter flowing waters, unless authorized by this permit.
11. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.
12. Continuous flow of perennial springs shall be maintained by the installation of spring boxes, french drains, or other similar structures.
13. Wet or uncured concrete shall be prohibited from entry into flowing surface waters.
14. All non-impacted surface waters within the project or right-of-way limits that are within fifty feet of any clearing, grading, or filling activities shall be clearly flagged or demarcated for the life of the construction activity within that area. The permittee shall notify all contractors and subcontractors that these marked areas are surface waters where no activities are to occur.
15. Heavy equipment in temporarily impacted wetland areas shall be placed on mats, geotextile fabric, or other suitable measures to minimize soil disturbance to the maximum extent practical. Mats shall be removed as soon as the work is complete.
16. Temporary disturbances to wetlands during construction shall be avoided and minimized to the maximum extent practicable. All temporarily disturbed wetland areas shall be restored to pre-construction conditions and planted or seeded with appropriate wetland vegetation according to cover type (emergent, scrub-shrub, or forested). The permittee shall take all appropriate measures to promote revegetation of temporarily disturbed wetland areas with wetland vegetation by the second year post-disturbance. All temporary fills shall be removed in their entirety and the affected area returned to pre-existing contours.

17. All materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats or geotextile fabric, immediately stabilized to prevent entry into State waters, managed such that leachate does not enter State waters, and entirely removed within 30 days following completion of that construction activity. Disturbed areas shall be returned to original contours, stabilized within 30 days following removal of the stockpile, and restored to the original vegetated state.
18. In issuing this permit, the Board has not taken into consideration the structural stability of any proposed structure(s).

C. Construction Monitoring

1. Photo stations shall be established to document the construction activities within impact areas authorized by this permit. Photographs shall document the pre-construction conditions, activities during construction and post-construction conditions within one week after completion of construction. Photographs shall be taken during construction at the end of the first, second, and twelfth months of construction, and then annually for the remainder of the construction project. Photographs are not necessary during periods of no activity within impact areas.
2. Monitoring of water quality parameters shall be conducted during rerouting of the live streams through the new channels in the following manner:
 - a. A sampling station shall be located upstream and immediately downstream of the relocated channel;
 - b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken once every half hour for at least three readings at each station prior to opening the new channels;
 - c. After opening the new channel, temperature, pH and D.O. readings shall be taken once every half hour for at least three readings at each station within 24 hours of opening the new channel.

Data shall be submitted within one week of completing the activity.

3. Stream bottom elevations at road crossings shall be measured at the inlet and outlet of the proposed structure and recorded prior to construction and within one week after the completion of construction. This requirement shall only apply to those streams not designated as intermittent or those streams not designated in association with stream channelization. Data shall be submitted within 30 days of completing construction.

D. Required Notifications and Submittals

1. All written communications required by this permit shall be submitted to the Department of Environmental Quality, Northern Virginia Regional Office (DEQ-NVRO), 13901 Crown Court, Woodbridge, Virginia, 22193. Please include the permit number on all correspondence.
2. Properly labeled photographs shall include the following information: date and time of the photograph, name of the person taking the photograph, photograph orientation, permit number, and identifying name/description of the photograph.

3. The DEQ-NVRO VWPP Program shall be notified in writing by certified mail to Department of Environmental Quality, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, Virginia, 22193 at least ten days prior to the start of activities authorized under this permit so that inspections of the project can be planned, if deemed necessary. The notification shall include identification of the impact area and compensation site (if applicable) at which work will occur and a projected schedule for completing work at each permitted impact area and compensation site (if applicable).
4. The DEQ-NVRO VWPP Program shall be notified in writing by certified mail within 30 days following the completion of all activities in permitted impact areas authorized under this permit.
5. The permittee shall report any fish kills or spills of fuels or oils immediately upon discovery. If spills or fish kills occur between the hours of 8:15 AM to 5:00 PM Monday through Friday, DEQ-NVRO shall be notified at (703) 583-3800; otherwise, the Department of Emergency Services shall be notified at 1-800-468-8892.
6. Violations of State water quality standards shall be reported within 24 hours to the DEQ at (703) 583-3800.
7. The permittee shall notify the board in writing 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 the board.
- ✓ 8. The permittee shall submit final Plans and Specifications for activities authorized by this permit prior to the beginning of each component construction, unless the final Plans and Specifications were previously submitted with the permit application. Construction shall be performed in accordance with the submitted Plans and Specifications.
9. After construction begins, construction monitoring reports for the impact area(s) shall be submitted to the board within 30 days of each monitoring event. The reports shall include, at a minimum, the following:
 - a. A written narrative stating when work started in the identified impact area, where work was performed, what work was performed, and what work was completed.
 - b. Properly labeled photographs showing representative construction activities including, but not limited to, flagging nonimpact wetland areas, site grading and excavation, installation and maintenance of erosion and sediment controls, culvert installation, bridge and ramp construction, dredging, dredge disposal, etc.
10. All compensatory wetland mitigation monitoring reports shall be submitted by November 30th of the monitoring year, with the exception of the last year of monitoring, in which case the report shall be submitted at least 60 days prior to expiration of the permit. The reports shall include, at a minimum, the following:

- a. An analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams or other open water areas set forth in the final mitigation plan;
 - b. An analysis of all vegetative community information, including woody and herbaceous species, both planted and volunteers, set forth in the final mitigation plan;
 - c. Any wildlife species observed, both direct and indirect, using the mitigation area;
 - d. Any corrective measures or maintenance activities to control invasive species, repair any damaged water control device, or replace any damaged planted vegetation; and
 - e. Photographs taken from permanent markers identified in the final mitigation plan, and established to ensure that the same locations and view directions at the site or sites are monitored in each monitoring period. These photographs shall be taken after the initial planting and in August or September every monitoring year. Photographs shall be appropriately labeled, following the procedures described in Section D, Number 2 of this permit.
11. Prior to construction, the permittee shall submit a final stream compensation plan, which includes (at a minimum); the goals and objectives of the plan, in terms of replacement of functions and values and expressed in linear feet; a detailed description of the stream bed and streambank stabilization activities (e.g., type of vane, root wad, or other instream structure, location); riparian buffer plantings (e.g., scheme, species, width); structures and features necessary for the success of the site; the schedule for compensation site construction; a location map, including latitude and longitude (to the nearest second) at the center of the site; site access plan; a monitoring plan, including proposed success criteria for streambed and streambank stabilization and riparian buffer success, monitoring goals which shall include, at a minimum, physical stream measurements and surveys to determine stability of the stream, benthic macroinvertebrate sampling and indices allowing comparison from year to year, riparian habitat assessment following scientifically based protocol, and the location of photo stations, vegetation sampling points, survey points, and reference streams (if available); an abatement and control plan for undesirable species, including, at a minimum, the species listed on DCR's Invasive Alien Plant Species of Virginia list, and including procedures to notify DEQ of any undesirable plant species occurrences, methods of removal, and successful control; an erosion and sedimentation control plan; and livestock access limiting measures.
12. DEQ shall be notified in writing at least ten days prior to the initiation of activities at the compensation site. The notification shall include a projected schedule of activities and construction completion.
13. Stream mitigation monitoring shall be conducted in accordance with the final mitigation plan approved by the board. All monitoring reports shall be submitted by November 30th of the monitoring year. Monitoring reports shall include:
- a. Photographs sufficient to document installation of specific structures and vegetative plantings or where the stream channel banks are reshaped. Permanent markers shall be established to ensure that the same locations and view directions at the site are photographed in each monitoring period. Photographs shall be appropriately

labeled, following the procedures described in Section D, Number 2 of these permit conditions.

- b. Discussion of the establishment of vegetation, if applicable.
 - c. Any alterations, maintenance, and corrective actions conducted at the stream mitigation site.
14. The final wetland and stream compensation plans shall include protection of surface waters (including compensation areas and non-impacted surface waters within the project boundary) in perpetuity. These areas shall be surveyed or platted within 120 days of completion of construction of the mitigation areas and the survey or plat shall be recorded in accordance with the requirements of this section. The restrictions, protections, or preservations, or similar instrument shall state that no activity will be performed on the property in any area designated as a compensation area or non-impacted surface water, with the exception of maintenance or corrective action measures of a VWP individual permit, modification of this permit, or waiver thereof, this restriction applies to ditching, land clearing or the filling, dumping, excavating, draining, flooding, or impounding. Such instrument shall contain the specific phrase "ditching, land clearing or discharge of dredge or fill material" in the limitations placed on the use of these areas. The protective instrument shall be recorded in the chain of title to the property. Proof of recordation shall be submitted within 60 days of survey or plat approval. This requirement is to preserve the integrity of compensation areas and to ensure that additional impacts to surface waters do not occur.
15. Water Quality Monitoring Reports shall be submitted quarterly to DEQ-NVRO, beginning the third full month after the stormwater management pond reaches full permanent pool elevation.
16. All reports required by this permit and other information requested by the board shall be signed by the applicant or a person acting in the applicant's behalf, with the authority to bind the applicant. A person is a duly authorized representative only if:
- a. The authorization is made in writing by a person described above; and
 - 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.
 - c. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the board prior to or together with any separate information, or applications to be signed by an authorized representative.
17. All submittals required by this permit 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 violation.

18. Documentation that the USACE has received the in-lieu fund contribution shall be submitted to DEQ-NVRO within 60 days of permit modification issuance. All work shall cease if this documentation has not been submitted by the permittee.

E. Road Crossings

1. Access roads shall be constructed to minimize the adverse effects on surface waters to the maximum extent practicable and to follow as near as possible pre-construction contours and elevations. Access roads constructed above pre-construction contours and elevations in surface waters must be properly bridged or culverted to maintain surface flows.
2. At crossings of perennial streams, pipes and culverts shall be countersunk a minimum of six inches to provide for the re-establishment of a natural stream bottom and to maintain a low flow channel. For multiple-celled culverts, only those cells situated within the limits of ordinary high water shall be countersunk. Countersinking is not required for existing pipes or culverts that are being maintained or extended.
3. Installation of pipes and road crossings shall occur "in the dry" via the implementation of cofferdams, sheetpiling, stream diversions or other similar structures.
4. All State waters temporarily affected by a road crossing shall be restored to their original elevations immediately following the construction of that particular crossing.
5. If stream channelization or relocation is required, all work in surface waters shall be done in the dry, unless authorized by this permit, and all flows shall be diverted around the channelization or relocation area until the new channel is stabilized. This work shall be accomplished by leaving a plug at the inlet and outlet ends of the new channel during excavation. Once the new channel has been stabilized, flow shall be routed into the new channel by first removing the downstream plug and then the upstream plug. The new stream channel shall be constructed following the typical sections submitted with the application. A low flow channel shall be constructed within the channelized or relocated area. The centerline of the low flow channel shall meander, to the extent possible, to mimic natural stream morphology. The rerouted stream flow must be fully established before construction activities in the old streambed can begin.

F. Utilities

1. All utility line work in surface waters shall be performed in a manner that minimizes disturbance, and the area must be returned to its original contours and stabilized, unless otherwise authorized by this permit.
2. Material resulting from trench excavation may be temporarily sidecast into wetlands not to exceed a total of 90 days, provided the material is not placed in a manner such that it is dispersed by currents or other forces.

3. The trench for a utility line cannot be constructed in a manner that drains wetlands (for example, backfilling with extensive gravel layers creating a french drain effect).

G. Stream Modification and Streambank Protection

1. If stream channelization or relocation is required, all work in State waters shall be performed completely "in the dry", unless otherwise authorized by this permit. This shall be accomplished by leaving a plug at the inlet and outlet ends of the new channel during excavation. Once the new channel has been stabilized, flow shall be routed into the new channel by first removing the downstream plug and then the upstream plug. The new stream channels shall be constructed in accordance with the typical sections submitted with the application. A low flow channel shall be constructed within the channelized or relocated area. The centerline of the low flow channel shall meander, to the extent possible, to mimic natural stream morphology. The rerouted stream flow must be fully established before construction activities in the original stream can begin.
2. Redistribution of existing stream substrate for erosion control purposes is prohibited.
3. All material removed from the stream substrate shall be disposed of in an approved upland area.
4. Riprap bank stabilization shall be of an appropriate size and design in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.
5. Riprap apron for all outfalls shall be designed in accordance with Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.
6. For streambank protection activities, structures and backfill shall be placed as close to the streambank as practical. No material shall be placed in excess of the minimum necessary for erosion protection.
7. All streambank protection structures shall be located to eliminate or minimize impacts to vegetated wetlands to the maximum extent practical.
8. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills or breakwaters.

H. Golf Courses

1. A buffer zone of at least ten (10) feet shall be established from the boundaries of surface waters, including preserved and mitigation wetlands, naturally occurring and man-made ponds, and perennial and intermittent streams. The application of fertilizers, herbicides, insecticides, fungicides, and other pesticides shall be prohibited within this buffer.
2. All clearing in preserved wetlands to accommodate golf course flight paths shall be performed by hand or hand-held machine. Land disturbing activities in these areas shall be prohibited. Stumps may be ground by rubber-tired grinders placed on mats, geotextile fabric, or other suitable measures to minimize soil disturbance to the maximum extent practical.

3. A Nutrient and Integrated Pest Management Plan approved by DCR shall be implemented prior to turf establishment.
4. If total groundwater and surface water withdrawals exceed 10,000 gallons per day on average in any month, the permittee shall report the withdrawals to DEQ by January 31st of the following year (in accordance with 9 VAC 25-200-10 et seq.). Reporting shall follow the notification provisions of Section D of these permit conditions.

I. Stormwater Management Facilities

1. Stormwater management facilities shall be designed in accordance with best management practices and watershed protection techniques (i.e., vegetated buffers, siting considerations to minimize adverse effects to aquatic resources, bioengineering methods incorporated into the facility design to benefit water quality and minimize adverse effects to aquatic resources) that provide for long-term aquatic resources protection and enhancement, to the maximum extent practicable.
2. The outfall and overflow structure shall be constructed and maintained to prevent downstream sediment deposition, erosion, or scour that may be associated with normal flow and any expected storm flows. Construction shall include the use of an appropriately sized riprap outlet protection apron at the outfall site.
3. Maintenance excavation shall follow the approved maintenance plan authorized by this permit, and shall not exceed the original contours of the facility as constructed and approved by DEQ.
4. Compensatory mitigation for unavoidable impacts shall not be allowed within maintenance areas of stormwater management facilities.
5. Maintenance within stormwater management facilities will not require mitigation provided that the maintenance is accomplished in designated maintenance areas as indicated in the Belmont Plantation maintenance plan.
6. Draining of a pond shall be performed by a method that prevents downstream sediment deposition, erosion, or scour.

J. Compensation Requirement

1. Mitigation for the project impacts shall consist of:
 - a. The on-site creation of 4.52 acres of palustrine forested wetlands (PFO) as described on the site plan entitled "Wetland Impacts Maps, Belmont Plantation" dated March 2, 2000 with a final revised date of August 6, 2001.
 - b. The on-site creation of 2.86 acres of palustrine emergent wetland (PEM) as described on the site plan entitled "Wetland Impacts Maps, Belmont Plantation" dated March 2, 2000 with a final revised date of August 6, 2001.
 - c. The on-site creation of at least 7.5 acres of open waters.

- d. The on-site restoration of 1650 linear feet of intermittent stream channel as described on the site plan entitled "Wetland Impacts Maps, Belmont Plantation" dated March 2, 2000 with a final revised date of August 6, 2001. The on-site restoration of 1371 linear feet of intermittent stream channel as described in the site plan entitled "Conceptual Stream Restoration Plan-Belmont Country Club" dated September 5, 2003.
- e. The on-site preservation of approximately 14 acres of riparian buffer as described on the site plan entitled "Wetland Impacts Maps, Belmont Plantation" dated March 2, 2000 with a final revised date of August 6, 2001.
- f. The on-site preservation of 2.60 acres of PFO and 2.37 acres (9565 linear feet) of intermittent stream channel as described on the site plan entitled "Preservation Areas for Future Phases, Belmont Plantation" dated September 27, 2001.
- g. The contribution of \$116,704.00 to the Virginia Wetlands Restoration Trust Fund including, \$52,584.00 for PFO impacts and \$64,120.00 for impacts to an intermittent stream channel.

K. Compensation On Site

Compensation Site Development

1. Construction of wetland mitigation areas shall occur prior to or concurrent with wetland impacts.
2. The permittee shall provide appropriate and practicable compensatory mitigation for all impacts meeting the conditions outlined in this permit. The site or sites depicted in the conceptual compensatory mitigation plan submitted with the registration statement, shall constitute the compensatory mitigation plan for the approved project.
3. All aspects of the compensatory mitigation plan shall be finalized, submitted and approved by the board prior to any construction activity in permitted impact areas. The final compensatory mitigation plan as approved by the board shall be an enforceable requirement of this permit. Any deviations from the approved plan must be submitted and approved in advance by the board.
 - a. The final compensatory mitigation plan shall include: narrative description of the plan including goals and objectives, site location, existing and proposed grade, schedule for compensatory mitigation site construction, source of hydrology and a water budget for a typical year, a dry year and a wet year (including water budget methodology, and weather stations and years used), plant species, planting scheme indicating expected zonation, planting schedule, an abatement and control plan for undesirable plant species, soil amendments, all structures and features considered necessary for the success of the plan, and number and locations of photographic stations and ground water monitoring wells. Rooted seedlings or cuttings shall originate from a local nursery or be adapted to local conditions. Vegetation shall be native species common to the area, shall be suitable for growth in local wetland conditions, and shall be from areas within approximately 200 miles from the project site.
 - b. The final compensatory mitigation plan shall include protection of state waters (including compensatory mitigation areas and nonimpact state waters) within the

project boundary in perpetuity. These areas shall be surveyed or platted within 120 days of final plan approval, and the survey or plat shall be recorded in accordance with the requirements of this section. The restrictions, protections, or preservations, or similar instrument shall state that no activity will be performed on the property in any area designated as a compensatory mitigation area or nonimpact state water, with the exception of maintenance or corrective action measures authorized by the board. Unless specifically authorized by the board through the issuance of a VWP individual permit, modification of this permit, or waiver thereof, this restriction applies to ditching, land clearing or the filling, dumping, excavating, draining, flooding, or impounding. Such instrument shall contain the specific phrase "ditching, land clearing or discharge of dredge or fill material" in the limitations placed on the use of these areas. The protective instrument shall be recorded in the chain of title to the property. Proof of recordation shall be submitted within 60 days of survey or plat approval. This requirement is to preserve the integrity of compensatory mitigation areas and to ensure that additional impacts to state waters do not occur. Given the preliminary nature of the permittee's future phase development plans at the time of issuance for this permit, the likelihood that further modifications to the compensatory mitigation requirements may be necessary is acknowledged.

4. Post-grading elevations for the compensation site shall be sufficient to ensure that wetland hydrology will be achieved on the site to support the goals and objectives of the compensation plan.
5. A site stabilization plan shall be provided for compensation sites involving land disturbance at least 60 days prior to construction activities.
6. Planting of woody plants shall occur when vegetation is normally dormant unless otherwise approved in the final mitigation plan.
7. Point sources of stormwater runoff shall be prohibited from entering any wetland compensatory mitigation site prior to treatment by appropriate best management practices. Appropriate best management practices may include sediment traps, grassed waterways, vegetated filter strips, debris screens, oil and grease separators, and forebays.
8. The success of the compensatory mitigation shall be based on establishing and maintaining a viable wetland with suitable wetland hydrology, hydric soils or soils under hydric conditions, and hydrophytic plant communities, in accordance with the final compensation plan.
9. Wetland hydrology shall be considered established if depths to the seasonal high water table are equal to or less than 12 inches below ground surface for at least 12.5% of the growing season (27 consecutive days), as defined in the United States Department of Agriculture soil survey for the locality of the compensation site in all monitoring years under normal rainfall conditions, as defined in the water budget of the final mitigation plan.
10. The wetland plant community shall be considered established according to the performance criteria specified in the final mitigation plan and approved by the board. Species composition shall reflect the desired plant community types stated in the final mitigation plan by the end of the first growing season and shall be maintained through the last year of the VWP permit. Species composition shall consist of greater than 50%

facultative (FAC) or wetter (FACW or OBL) vegetation, as expressed by plant stem density or aerial cover.

11. Noxious weeds shall be identified and controlled as described in the noxious weed control plan, such that they are not dominant species or do not change the desired community structure. The control plan shall include procedures to notify the board of any invasive species occurrences, methods of removal, and successful control.
12. If the compensatory mitigation area fails to be established as viable wetlands, the reasons for this failure shall be determined and a corrective action plan, schedule, and monitoring plan shall be submitted to the board for approval prior to or with the next required monitoring report. All problems shall be corrected by the permittee. Shall significant changes be necessary to establish wetlands, the monitoring plan shall begin again, with year one being the year changes are complete.
13. The wetland boundary for the compensatory mitigation site shall be based on the results of the hydrology, soils, and vegetation monitoring data and shall be shown on the site plan. Calculation of total wetland acreage shall be based on that boundary at the end of the monitoring cycle. Data shall be submitted within 30 days of the final monitoring event.
14. Herbicides or algicides shall not be used in or immediately adjacent to the compensatory mitigation site or sites without prior authorization by the board. All vegetation removal shall be done by manual means, unless authorized by the board in advance.

Compensation Site Monitoring

15. A post-grading survey, including spot elevations, of the site for wetland compensatory mitigation shall be required and shall be conducted by a licensed land surveyor or a professional engineer.
16. Photographs shall be taken at the compensatory mitigation site or sites from the permanent markers identified in the final mitigation plan, and established to ensure that the same locations and view directions at the site or sites are monitored in each monitoring period. These photographs shall be taken after the initial planting and in August or September every monitoring year. Photographs shall be appropriately labeled, following the procedures described in Section D of these permit conditions.
17. Compensatory mitigation site monitoring for hydrology, soils, and hydrophytic vegetation shall begin at the first complete growing season (year one) following compensatory mitigation site construction. Monitoring shall be required for years 1, 2, 3, 5, and 7. If all success criteria have not been met in the seventh year, then monitoring shall be required for each consecutive year until two annual sequential reports indicate that all criteria have been successfully satisfied (i.e., that corrective actions were successful).
18. The establishment of wetland hydrology shall be measured during the growing season, with the location and number of monitoring wells, and frequency of monitoring for each site, set forth in the final monitoring plan. All hydrology monitoring well data shall be accompanied by precipitation data, including rainfall amounts, either from on site, or from the closest weather station. Once the wetland hydrology success criteria have been satisfied for a particular monitoring year (see "Compensation Site Development, Subsection 8"), monitoring may be discontinued for the remainder of that monitoring year.

19. The presence of hydric soils or soils under hydric conditions shall be evaluated in accordance with the final mitigation plan.
20. The establishment of wetland vegetation shall be in accordance with the final mitigation plan. Monitoring shall take place in August or September during the growing season of each monitoring year, unless otherwise authorized in the monitoring plan.
21. The presence of noxious species shall be documented.
22. Compensation site monitoring reports shall follow the procedures described in Section D of these permit conditions. Any alterations and maintenance conducted on the compensatory mitigation sites shall be reported. Invasive species occurrences and control of these occurrences shall also be reported to the board.

Stormwater Management Ponds Monitoring

23. The permittee shall monitor the discharge of all stormwater management/best management practices (SWM/BMP) ponds by establishing one monitoring station no more than 100 feet upstream of the pond and one station no more than 100 feet downstream on the pond. The first monitoring report shall include the location of the water quality monitoring stations, including maps of adequate detail to locate monitoring stations in the field, and the proposed water quality test methods in accordance with 40 CFR part 136. Water quality monitoring shall begin immediately after each SWM/BMP pond reaches full permanent pool elevation and shall incorporate the following:
 - a. Sampling shall occur one per month following filling of each pond for the life of the permit;
 - b. At each monitoring station, samples shall be taken within one foot of the water surface;
 - c. Downstream and upstream station water samples shall be tested for dissolved oxygen, pH, and temperature. Times and dates of each sample must be recorded as well as the name of individual(s) performing the sampling;
 - d. Should sample results indicate levels of concern, additional monitoring shall be required as arranged through consultation with DEQ-NVRO. If unacceptable levels continue, remedial action shall be developed between the permittee and DEQ-NVRO; and
 - e. Upon completing construction, photographs of the SWM/BMP ponds and impoundment structures shall be taken once per year in August, for the life of the permit, as part of water quality monitoring activities.

L. Stream Mitigation/Restoration

1. Stream mitigation shall be performed in accordance with the final mitigation plan and subsequent submittals, as approved by the board.
2. Stream bank slopes shall be stabilized to reduce stream bank erosion, where practical.

3. Stream mitigation monitoring shall be conducted in accordance with the final mitigation plan approved by the board. All monitoring reports shall be submitted by November 30 of the monitoring year, and shall follow the procedures described in Section D of this permit conditions

Part II – General Conditions

- A. Duty to comply.** The permittee shall comply with all conditions of the VWP permit. Nothing in this permit 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.
 3. 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 A above, or for other reasons listed in 9 VAC 25-210-180.
- 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.

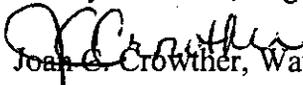
1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.
2. Samples 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. Reopener.** This permit may be reopened to modify conditions to meet new regulatory standards duly adopted by the board. Cause for reopening a permit includes, but is not limited to when the circumstances on which the 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 permit was issued and thereby constitute cause for permit modification or revocation and re-issuance.

- I. **Compliance with state and federal law.** Compliance with this 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.
- J. **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.
- K. **Transferability.** Except as provided for under automatic transfer, a permit shall be transferred only if the permit has been modified to reflect the transfer or has been revoked and reissued to the new permittee. A permit shall be automatically transferred to a new permittee 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 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.
- L. **Civil and criminal liability.** Nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.
- M. **Unauthorized discharge of pollutants.** Except in compliance with this permit, it shall be unlawful for the permittee to dredge, fill or discharge any pollutant into, or adjacent to surface waters, or otherwise alter the physical, chemical or biological properties of surface waters, excavate in wetlands, or on or after October 1, 2001, conduct the following activities in a wetland:
1. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;
 2. Filling or dumping;
 3. Permanent flooding or impounding; or
 4. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

- N. Severability.** The provisions of this permit authorization are severable.
- O.** 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.

December 12, 2003
MEMORANDUM

TO: Jeffery A. Steers, Regional Director
FROM:  Joan C. Crowther, Water Resources Development Supervisor
SUBJECT: Issuance of Virginia Water Protection Individual Permit Modification No. 98-V1414, Belmont Plantation, Loudoun County

DEQ has reviewed the application for the Virginia Water Protection (VWP) Individual Permit Modification No. 98-V1414 and has determined that the project qualifies as a VWP Category II Major Modification. Based on the information provided in the application and in compliance with § 401 of the Clean Water Act, as amended (33 USC 1251 et seq.), and the State Water Control Law and regulations, DEQ has determined that there is a reasonable assurance that the activity authorized by this Major Modification to the VWP individual permit will protect instream beneficial uses, will not violate applicable water quality standards, and will not cause or contribute to significant impairment of state waters or fish and wildlife resources provided the permittee complies with all permit conditions.

Surface water impacts have been avoided and minimized to the maximum extent practicable. The proposed modification also addresses no net loss of wetland acreage and function through compensatory mitigation and adequately assesses compensation implementation via success monitoring and reporting. Permitted wetland impacts have been inventoried in evaluating this proposed permit.

The following details the Major Modification application review process.

1. Contact Information:

Permittee Legal Name and Address:

Belmont Land, L. P.
c/o Toll Brothers, Inc.
20445 Stubble Road, Suite 155
Ashburn, Virginia 20147
Attn: Mr. Gary Van Alstyne
(703) 858-9402

Agent Legal Name and Address:

Williamsburg Environmental Group, Inc.
7401 Beaufont Springs Drive, Suite 205
Richmond, Virginia 23225
Attn: Brad Helmandollar
(804) 267-3474

2. Processing Dates:

Received Application: December 2, 2002
 Application Complete: September 5, 2003
 Permit Fee Deposited by Accounting: March 13, 2003
 Draft Modification Permit Package Mailed: October 27, 2003
 Public Notice Published: November 5, 2003
 End of 30-Calendar Day Public Comment Period: December 5, 2003
 Public Hearing (if applicable): N/A

3. Project Location:

City/County:	Loudoun County
Waterbody:	Goose Creek, UT; Russell Branch, UT; Beaverdam Run, UT
Basin:	Potomac River
Subbasin:	Potomac River
Section:	8 (Goose Creek, UT; Russell Branch, UT)
Class:	III
Special Standards:	PWS
Section:	9 (Beaverdam Run, UT)
Class:	III
Special Standards:	None
HUC:	02070008

On-Site Compensation through creation and preservation

Off-Site Compensation through a contribution to the Virginia Wetlands Restoration Trust Fund

4. Project Description:

This action is a Major Modification to the permit issued on January 5, 1999 and revoked and reissued on December 20, 2001, which addressed the proposed construction of a master-planned residential development and associated infrastructure, known as "Belmont Plantation-Phases 1, 2, and 3" that resulted in 6.86 acres of permanent impacts and 3.29 acres of temporary impacts to state waters. The Modification is warranted due to the addition of permanent impacts to 0.65 acres of state waters associated with the construction of "Belmont Plantation-Phase 4" and the unauthorized filling of an intermittent stream channel within Phase 3.

5. Project Impacts:

The proposed activity results in the permanent impact of approximately 10.80 acres of state waters, including permanent impacts to 1.61 acres of palustrine forested wetland (PFO), 1.87 acres of palustrine emergent wetland (PEM), 3.95 acres (7558 linear feet) of intermittent stream channel, the unauthorized impacts to 0.08 acres (229 linear feet) of intermittent stream channel that occurred in the spring of 2003 as a result of the need to stabilize the eroding channel and temporary impacts to 3.29 acres of palustrine open water (POW). Water quality impacts are expected to be temporary and minimal provided the permittee abides by the conditions of the permit. A loss of state waters shall occur. However, the impacts have been avoided and minimized to the greatest extent practicable.

6. Avoidance and Minimization Efforts:

All impacts to state waters, associated with the modification, have been avoided and minimized to the maximum extent practicable based on the site constraints and the pre-determined location of road crossings and storm water management facilities. All road crossings are perpendicular to the stream channels where practicable and all lot fills have been reduced to the minimum necessary to achieve the project purpose. Therefore, it has been determined that the proposed project is the least environmentally damaging practicable alternative.

7. Compensation for Unavoidable Impacts:

Impacts to state waters shall be compensated through the on-site creation of 4.52 acres of PFO, on-site creation of 2.86 acres of PEM, on-site restoration of 3021 linear feet of intermittent stream channel, the on-site preservation of approximately 2.60 acres of PFO, 2.37 acres (9565 linear feet) of intermittent stream channel and 14 acres of upland riparian buffer and a contribution of \$52, 584.00 to the Virginia Wetlands Restoration Trust Fund (VWRTF). The unauthorized impacts to the intermittent stream channel shall be compensated, out-of-kind, through a contribution of \$64, 120.00 to the VWRTF.

8. Site Inspection:

A site visit was conducted on February 11, 2003. Details regarding the onsite inspection can be reviewed in the inspection report dated February 13, 2003 and contained in VWP permit file No. 98-V1414-Major Modification.

9. Riparian Landowner Notification:

All riparian landowners located adjacent to the impact area and within one-half mile downstream of each distinct impact area were notified on May 6, 2003. No responses were received.

10. Relevant Regulatory Agency Comments:

As part of the application review process, DEQ contacted the appropriate state regulatory agencies and coordinated with various federal regulatory agencies, including the United States Army Corps of Engineers (USACE). All relevant agency comments were addressed in the VWP individual permit Part I - Special Conditions. Therefore, the staff anticipates no adverse effect on water quality and fish and wildlife resources provided the applicant adheres to the permit conditions.

Summary of State Agency Comments and Actions

The following state agencies were contacted by letter dated February 26, 2003. The agency responses are outlined below.

The Virginia Marine Resources Commission (VMRC), email dated April 3, 2003, has indicated that there will be no authorization required for the proposed project.

The Virginia Department of Game and Inland Fisheries (DGIF), email dated September 30, 2003, indicated that there are no documented occurrences of threatened or endangered species within or adjacent to the project area. However, they recommended avoidance and minimization to the maximum extent practicable. This has been addressed within the permit process. DGIF also

recommended conducting all in stream activities in the dry and implementing strict erosion and sediment controls. These concerns are addressed in the existing special conditions. Therefore, no additional special conditions shall be added to the permit as a result of DGIF's comments.

The Virginia Department of Health (VDH), letter dated March 10, 2003, indicated there were no objections to the project.

The Virginia Department of Conservation and Recreation (DCR), letter dated April 10, 2003, indicated they do not anticipate any adverse impacts to natural heritage resources nor will the project affect any documented state-listed plants or insects.

Summary of Federal Agency Comments and Actions

The original project activities have been authorized by a USACE Individual Permit, which the USACE expects to modify.

11. Changes in Permit Special Conditions Due to Public Comment:

The Public Notice was published in the *Loudoun Times-Mirror* on November 5, 2003. No public comments were received during the public comment period. Therefore, no changes have been made to the permit conditions.

12. Permit Special Conditions Developed to Protect Water Quality:

The following conditions were developed to protect instream beneficial uses, to ensure compliance with applicable water quality standards, to prevent significant impairment of state waters or fish and wildlife resources, and to provide for no net loss of wetland acreage and function through compensatory mitigation and success monitoring and reporting.

Part I – Special Conditions:

The following conditions were developed to protect in stream beneficial uses, ensure compliance with applicable water quality standards, prevent significant impairment of state waters or fish and wildlife resources, and provide for no net loss of wetland acreage and function through compensatory mitigation and success monitoring and reporting.

Part A *Authorized Activities:*

- No. 1 addresses the activities authorized by this permit, including impact types and limits.
- No. 2 ensures that all conditions and limitations in the application and associated submittals will be adhered to for the entire permit term.
- No. 3 directs the permittee to notify DEQ-NVRO of additional impacts to state waters.
- No. 4 addresses the permit term and re-issuance process to ensure that all permit conditions are completed.

Part B *Standard Project Conditions:*

- No. 1 addresses the requirement to minimize of adverse impacts to instream beneficial uses.
- Nos. 2, 5, 9, 11, and 13 provide requirements and limitations on the entry of various materials (including concrete, fill, construction and waste material, fuels, lubricants, and untreated stormwater runoff) into state waters.
- No. 3 ensures that dredging and filling operations will minimize stream bottom disturbances and turbidity.
- No. 4 ensures that the project will be executed in a manner so as to minimize impacts to instream beneficial uses by imposing limitations on the disruption of the movement of aquatic life, and sets requirements for the maintenance of low flow conditions, provision for high flows, and minimization of adverse effects on navigation.
- No. 6 requires that Water Quality Standards downstream of the construction area must not be violated as a result of project activities.
- Nos. 7 and 8 require the use of erosion and sedimentation controls during excavation and construction operations to minimize impacts to surface waters.
- Nos. 10 and 15 limit the use of machinery and equipment in surface waters to protect beneficial uses.
- No. 12 requires maintenance of continuous flow of perennial springs for the protection of instream beneficial use.
- No. 14 requires the identification of all nonimpacted surface waters in the vicinity of the proposed activity to prevent unpermitted impacts.
- Nos. 16 and 17 summarize the requirements for the avoidance, minimization, and restoration requirements for temporary impacts.
- No. 18 determines that the permit does not take into consideration the structural stability of any proposed structure.

Part C Construction Monitoring

- No. 1 requires photographs of the sequencing construction so that the board may track the progress of the project and monitor permit compliance.
- No. 2 requires water quality monitoring to ensure compliance with Water Quality Standards.
- No. 3 requires the measurement of stream bottom elevations at road crossings for the protection of fish and wildlife resources and instream beneficial use.

Part D Required Notifications and Submittals

- Nos. 1 through 18 list the notification, submittal, and reporting requirements to ensure compliance with all permit conditions.

Part E Road Crossings

No. 1 provides specifications for access road construction to minimize adverse effects to surface waters.

Nos. 2 and 3 summarize requirements for pipe and culvert construction to provide for the re-establishment of a natural stream bottom and low flow channel to maintain instream beneficial uses.

No. 4 requires that temporary impacts be restored immediately to preconstruction conditions following project completion to minimize impacts to water quality and fish and wildlife resources.

No. 5 summarizes the requirements for stream channelization or relocation activities to protect instream beneficial use.

Part F Utilities

No. 1 requires the minimization of disturbance to surface waters and restoration to preconstruction conditions following utility line installation.

No. 2 sets a 90-day time limit for temporary sidecasting during trench excavation to minimize impacts to surface waters.

No. 3 provides the requirements for trench construction to avoid drainage of surface waters.

Part G Stream Modification and Streambank Protection

No. 1 addresses the requirements for stream channelization or relocation to avoid additional impacts to state waters.

No. 2 prohibits the use of stream substrate for erosion control to avoid additional impacts to state waters.

No. 3 requires upland disposal of material removed from stream substrate to avoid unpermitted impacts to surface waters.

Nos. 4 and 5 provide requirements for riprap placement during bank stabilization activities to minimize sedimentation of surface waters.

Nos. 6 and 7 address the placement of protective measures to minimize impacts to surface waters.

No. 8 prohibits the use of certain materials for the construction of submerged structures to protect water quality and fish and wildlife resources.

Part H Golf Courses

Nos. 1 through 4 ensure that all clearing in existing wetlands to accommodate golf course flight paths is done by hand and/or hand-held machine, that buffer areas around existing waters, including

wetlands, are established and maintained, that a Nutrient and Integrated Pest Management Plan is developed and approved. Requires yearly reporting notification if total groundwater and surface withdraw exceeds 10,000 gallons per day average in any month.

Part I Stormwater Management Facilities

No. 1 defines the general requirements for stormwater management facility construction to minimize adverse effects to aquatic resources and provide for long-term aquatic resources protection and enhancement.

Nos. 2 and 6 require the use of erosion and sedimentation controls to minimize sedimentation of surface waters.

No. 3 prohibits credit for compensatory mitigation within maintenance areas of the stormwater facility to ensure no net loss of wetland acreage and function.

Nos. 4 and 5 provide limits and guidance for maintenance excavation to avoid unpermitted impacts to surface waters.

Part J Compensation Requirements

This section describes compensatory mitigation required by the permittee to ensure that there is no net loss to wetland acreage and function.

Part K Compensation On-Site

This section lists the requirements to ensure success of the compensation site to provide appropriate compensation for unavoidable surface water impacts.

Compensation Site Development

No. 1 requires that wetland impacts are mitigated for in a timely fashion by requiring that mitigation area construction occur prior to or concurrent with wetland impacts.

No. 2 provides a general statement concerning compensatory mitigation to ensure no net loss of surface water acreage and function.

No. 3 lists requirements for the required compensation plan to ensure success of the mitigation site.

No. 4 requires a post-grading survey to ensure proper site conditions for the success of the site.

No. 5 requires a site stabilization plan for compensation sites that involve land disturbance.

No. 6 provides guidance on vegetation planting criteria to ensure vegetative success.

No. 7 prohibits the entry of point sources of untreated stormwater runoff into the mitigation site.

Nos. 8, 9, and 10 address success criteria to ensure no net loss of wetland acreage and function.

Nos. 11 and 14 provide guidance on the identification and control of noxious weeds and acceptable methods of vegetation removal.

No. 12 provides guidance if the area fails to be established as viable wetlands.

No. 13 specifies the method for identifying the wetland boundary to determine viable wetland acreage.

Compensation Site Monitoring

No. 15 requires a post-grading survey to ensure proper conditions for the success of the mitigation site.

No. 16 requires photographs of the site so that the board may track the progress of the project and monitor permit compliance.

No. 17 indicates the timing of compensation site monitoring to ensure success.

Nos. 18, 19, 20, and 21 define criteria that will be used to ensure success of the compensation site.

No. 22 describes the reporting requirements to ensure compliance with permit conditions.

Stormwater Management Ponds Monitoring

No. 23 establishes the sampling protocol for water quality monitoring and stormwater management/best management practices ponds and establishes a timeline for submitting monthly water quality monitoring to DEQ-NVRO.

Part L *Stream Mitigation/Restoration*

No. 1 through 3 require that the stream mitigation/restoration is performed and monitored in accordance with the final mitigation plan.

Part II - General Conditions:

General conditions are applied to all VWP individual permits, as stated in the VWP Permit Program regulation.

13. General Standard:

This project may result in negligible, temporary impacts to beneficial uses related to the propagation and growth of aquatic life as defined in the General Standard. Provided the permittee abides by the conditions of the permit, no substances shall enter state waters in concentrations, amounts or combinations that would contravene established standards or interfere with beneficial uses or are inimical or harmful to human, animal, plant, or aquatic life.

14. Staff Recommendations:

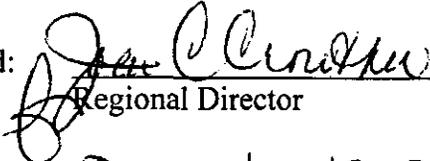
Based on the review of the permit application, the staff provides the following recommendations.

- The proposed activity is consistent with the provisions of the Clean Water Act and State Water Control Law, and will protect instream beneficial uses.
- The proposed permit addresses avoidance and minimization of wetland impacts to the maximum extent practicable.
- The effect of the impact, together with other existing or proposed impacts to wetlands, will not cause or contribute to significant impairment of state waters or fish and wildlife resources.
- The proposed permit conditions address no net loss of wetland acreage and function through compensatory mitigation and adequately assess compensation implementation via success monitoring and reporting.
- Permitted wetland impacts have been inventoried in evaluating this proposed permit.
- This permit is proposed to prevent unpermitted impacts.

The staff recommends that the Director:

- (1) Find the above determinations to be appropriate.
- (2) Approve the attached VWP individual permit Major Modification and conditions.
- (3) Direct the staff to issue VWP Individual Permit Modification No. 98-V1414.

Approved:


Regional Director

December 12, 2003
Date