# *COMMONWEALTH of VIRGINIA*

*DEPARTMENT OF ENVIRONMENTAL QUALITY*
TIDEWATER REGIONAL OFFICE
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Regional Director

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November 28, 2012

Virginia Marine Resources Commission
2600 Washington Avenue, 3rd Floor
Newport News, VA 23607

R.E. : Issuance of VPDES Permit No. VA0092711
Midtown/Downtown Tunnel/MLK Extension Project
Cities of Norfolk and Portsmouth, VA

Dear Sir or Madam:

Enclosed for your review is a copy of a VPDES permit application for a proposed discharge of pollutants from a point source to state waters adjacent to, or in near proximity to, shellfish growing areas. A copy of this application has also been sent to the Virginia Department of Health's Division of Shellfish Sanitation (DSS), and VDH's Office of Drinking Water. Further, DSS has been requested to copy VMRC on correspondence relative to this application.

Please review the application and DSS correspondence. If DSS notifies you that no condemnation of shellfish growing areas would be necessary as a result of the proposed discharge, then VMRC is not required to take any further action.

If DSS indicates in its correspondence that shellfish growing areas will have to be condemned (i.e., reclassified as restricted or prohibited as defined by the National Shellfish Sanitation Program) as a result of the proposed discharge, please fill out the attached certification form and send it to DEQ within 21 days of receipt of the DSS comments.

Alternatively, VMRC may respond to DEQ that more information is needed and that VMRC either intends to or does not intend to perform a field evaluation. If VMRC notifies DEQ that more information is needed and that it intends to perform a field evaluation, VMRC agrees to certify to DEQ within 30 calendar days after receipt of the notice that the condemnation will or will not have an effect on shellfish use now and in the foreseeable future. If VMRC certifies to DEQ that more information is needed and that it does not intend to perform a field evaluation,

DEQ will contact the permit applicant to allow the applicant the option of obtaining a field evaluation of the areas proposed for condemnation. If VMRC receives a field evaluation from the applicant, please review the evaluation and fill out the attached certification form and send it to DEQ within 21 days of receipt of the evaluation.

These deadlines are specified in an agreement between the Director of DEQ and the Commissioner of VMRC to ensure that DEQ can process the permit in a timely manner. If you have any questions, please do not hesitate to contact me by telephone at (757) 518 – 2106 or by e-mail at robert.smithsonjr@deq.virginia.gov.

Sincerely,

Robert E. Smithson, Jr.
Environmental Specialist Senior

Enclosure: VPDES Permit Application, Certification Form
cc: DSS, TRO ECM File

**Virginia Marine Resources Commission**
**Evaluation and Certification on the Effects of Proposed Shellfish Condemnation**
**Current VPDES Permit Number: VA0092711**
**Facility Location: Norfolk and Portsmouth, VA**
**Description of the designated area:**

**Presence or Absence of Shellfish; Identification of Species; Results of Survey:**

**Commercial Harvest Rates:**

**Private Oyster Ground Leases/Public Ground Designations:**

**Physical Parameters:**

**In accordance with 9 VAC 25-260-270, MRC has reviewed the above information for the VPDES application referenced above, and DSS information on shellfish growing areas that will be condemned (i.e. reclassified as restricted or prohibited as defined by the National Shellfish Sanitation Program) if the VPDES permit is issued for this discharge, and concludes the proposed condemnation will have the following effects on the shellfish use now and in the foreseeable future:**

**Signed:** _____

**Title:** _____

**Date:** _____

**This certification is intended to provide factual information to DEQ required by 9 VAC 25-260-270. This is not a final determination or case decision under the Virginia Administrative Process Act applicable to the above-mentioned facility or VPDES permit application. The final decision to issue or deny the VPDES permit application is within the discretion of the State Water Control Board.**