

April 29, 2011

**Virginia Coastal Zone Management Program  
Semiannual Section B Report on Core Agency Implementation Activities  
For the Period from October 1, 2010 – March 31, 2011**

	<b>Page</b>
<b>A. STATE AGENCY MONITORING</b> - The core agencies within the Virginia Coastal Zone Management Program are:	
<b>1) Department of Environmental Quality (DEQ)</b>	
a) Virginia Coastal Zone Management Program Office	1
b) Water Permitting Programs (VPDES, VPA, VWP)	1
c) Water Program Enforcement and Compliance	3
d) Air Permitting Program	4
e) Air Program Enforcement and Compliance	6
<b>2) Virginia Marine Resources Commission (VMRC)</b>	
a) Habitat Management Division	7
b) Fisheries Management Division	8
c) Law Enforcement Division	9
<b>3) Virginia Department of Health (VDH) – Division of Shoreline Sanitation</b>	10
<b>4) Department of Conservation and Recreation (DCR)</b>	
a) Division of Soil and Water Conservation	10
b) Division of Natural Heritage	13
c) Division of Planning and Recreation Resources	21
d) Division of Chesapeake Bay Local Assistance	22
<b>5) Department of Game and Inland Fisheries (DGIF)</b>	25
<b>B. FEDERAL CONSISTENCY</b>	37
<b>C. PROGRAM CHANGES</b>	50
<b>D. SECTION 312 EVALUATION PROGRESS</b>	50

## **A. STATE AGENCY MONITORING**

### **1) DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ)**

#### **a) DEQ – Virginia Coastal Zone Management Program**

Virginia CZM Program staff continued to work with our partner agencies to implement the Program over the last 6 months. For a full description of staff activities, please refer to the Section A report for Task 1.

#### **b) DEQ – Water Permitting Programs**

##### *DEQ- Virginia Water Protection Permit (VWPP) Program*

The Virginia Water Protection Permit (VWPP) Program is required for water withdrawals and activities in wetlands and surface waters that may or may not require Clean Water Act section 401 water quality certifications. The following table describes the activity for each of these permits. For the VWPP Program, the column “Permits Reissue Pending / Avg Proc. Days” represents water supply permit permits whose applications are currently being processed for reissuance. The processing days cannot be calculated until the permits are actually reissued.

Compared to the April to September 2010 reporting period, approximately about half as many general permit authorizations were issued during the current reporting period, and the average processing time<sup>(1)</sup> decreased. Any delays were mainly due to untimely applicant response, suspension of the permit process due to inadequate project information or change in project scope or impacts, threatened and endangered species concerns and/or coordination, coordination under the State Program General Permit process, and inadequate mitigation proposals. The number of individual permits issued during the current reporting period was about the same as those issued in the previous reporting period, and the average processing time<sup>(1)</sup> decreased. Any delays were largely due to threatened and endangered species concerns and/or coordination, incomplete applications, suspension of the permit process due to inadequate project information, and hearings/State Water Control Board meetings required.

About the same number of permits and permit authorizations were modified during this reporting period, and the average time to process these requests continued to be in line with program guidelines for issuance actions (no regulatory time line for processing changes to general permit authorizations or individual permits).

Four individual permits were reissued during the current reporting period. General permit authorizations are not reissued in the VWPP program.

No applications were denied a permit during the current reporting period.

The VWPP program staff conduct inspections on a variety of sites and for a variety of reasons. Inspection data is available from the DEQ Quarterly and Annual reporting made to the Administration division, and is also provided to the Virginia Department of Accounts on a fiscal year basis. This data can be provided if necessary for the purposes of this report.

##### *DEQ-Virginia Pollution Discharge Elimination System (VPDES) Water Permitting Program*

There are a total of 258 individual municipal and industrial CZM area VPDES permits. This number and the numbers in the table above represent typical activity in the program. Over

time, the number will possibly decrease by several more since DEQ now has a general permit for water treatment plants and most of these facilities will let their individual permit expire and apply for the general permit. Other than that, there is no particular reason for increases or decreases in numbers from the last reporting period. There are also numerous facilities registered under general permits in CZM areas including 16 car wash facilities, 73 concrete products facilities, 7 cooling water discharges, 97 single family homes, 22 nonmetallic mineral mining facilities, 3 petroleum and hydrostatic testing discharges, 58 seafood processors, 334 industrial storm water discharges and 1 coin operated laundry. It is unknown why the industrial storm water permits have gone down except that perhaps facilities are just closing down. Others represent typical numbers for general permit registrants in CZM areas in Virginia.

*DEQ – VPA Water Permitting Program*

The Virginia Pollution Abatement permit (VPA) is required for facilities that manage wastewater, animal waste, biosolids or industrial sludges in such a manner that they do not have a discharge from the site. For example, an agricultural facility that temporarily stores wastewater to be land applied as part of an irrigation/fertilization program. During the period between October 1, 2010 and March 31, 2011, two VPA Individual permits were issued in the Coastal Zone Management area, each authorizing the land application of biosolids. No other VPA permit applications for new permits were received during that time. Three permit applications were received for the reissuance of VPA Permits, each non-biosolids related; each are pending. Two applications to modify VPA Permits were received; one modifying a biosolids land application permit was issued, the other non-biosolids permit modification is pending.

During this reporting period, the General Permit and Regulation for Poultry Waste Management was reissued for an effective date of December 1, 2010. During the period between October 1, 2010 and March 31, 2011, coverage under the General Permit was reissued to 70 facilities in the Coastal Zone Management area. During the period between October 1, 2010 and March 31, 2011, no applications were received and no coverage was issued, modified or denied under the VPA General Permit for Animal Feeding Operation in the Coastal Zone Mgmt area.

<b>VPDES/VPA/VWP - October 1, 2010 – March 31, 2011</b>										
	Permits Issued / Avg Proc. Days		Permits Reissued / Avg Proc. Days		Permits Modified / Avg Proc. Days		Denied / Avg Proc. Days		Permits Reissue Pending / Avg Proc. Days	
VPDES	0	NA	17	199	8	67	0	NA	30**	NA
VPA	2	83	70	***	1	9	0	NA	3	101
VWP IPs	13	127	0	N/A	18	124	0	N/A	3	N/A
VWP GPs	81	29	0	N/A	15	29	0	N/A	0	N/A

**Processing day is the amount of time between receiving a complete application and making the final case decision (issuance, reissuance, modification, etc.).**

\* Information from CEDS database

\*\* This represents existing VPDES individual permits expired but pending through March 31, 2011

\*\*\*The average number of days to process the reissuance of the coverage under the General Permit for the Poultry Waste Management is not available at this time. The CEDS permit module is being upgraded and data is not available at this time. The typical number of days to process the reissuance is approximately 15 days.

**c) DEQ – Water Program Enforcement and Compliance**

DEQ continues to apply both informal and formal enforcement measures in the enforcement program. Reference Table 1, below.

Informal measures, such as Warning Letters and Letters of Agreement, are used in those cases where non-compliance is not significant in nature and where compliance can be achieved in a short period of time. For the period October 1, 2010, through March 31, 2011, DEQ issued 281 Warning Letters and three Letters of Agreement for violations of VPDES, VPA, VWPP, and Ground Water program requirements.

Formal enforcement actions are used in those cases where non-compliance is more serious or may take a significant amount of time to correct. Formal measures generally involve the issuance of a Notice of Violation followed by a Consent Order, or an Executive Compliance Agreement in the case of a state agency. In some cases, Unilateral Administrative Orders or court orders may be sought. Between October 2010 and March 2011, DEQ issued 51 Notices of Violation for violations of VPDES, VPA, VWPP, and Ground Water program requirements. During the same period, the agency concluded enforcement cases with the issuance of eight Consent Orders that assessed a total of \$178,421 in civil charges. Additionally, the Agency imposed civil charges totaling \$38,850 for two cases handled through the administrative hearing process. One VPDES consent order included Supplemental Environmental Project (SEP) that required the responsible party to undertake a program of stream cleanups related to selected tributaries from two watersheds of the James River.

**Table 1**

<b>Measure</b>	<b>Action Type</b>	<b>Count</b>	<b>Total Civil Charges Assessed</b>
Informal	Warning Letters	281	n/a
Informal	Letters of Agreement	3	n/a
Formal	Notices of Violation	51	n/a
Formal	Consent Order	8	\$178,421
Formal	Orders issued through the administrative hearing process	2	\$38,850
Formal	Additional penalties from amended federal consent decree	1	\$75
<b>Total</b>		<b>346</b>	<b>\$217,346</b>

d) DEQ – Air Permitting Program

**OFFICE OF AIR PERMIT PROGRAMS  
PERMITS ISSUED REPORT FOR  
VIRGINIA’S COASTAL RESOURCES MANAGEMENT PROGRAM**

Period: October 1, 2010 – March 31, 2011

PERMIT TYPE	NUMBER OF PERMITS ISSUED	AVERAGE PROCESSING TIME (Days)
PSD & NA	0	NA
Major	0	NA
Minor	22	32
Administrative Amendment	4	39
Exemptions	74	14
State Operating	11	94
Federal Operating (Title V)	1	NA
Acid Rain (Title IV)	0	NA
Total Number Permits Issued	<u><b>112</b></u>	

\* The average processing time is determined by computing the difference between when the application was deemed administratively complete and when the permit was issued.

Note: The information provided for this report includes data from the Northern Virginia Regional Office, Piedmont Regional Office and Tidewater Regional Office only.

Definitions:

Prevention of Significant Deterioration (PSD) = A source which emits **250 tons or more** per year of any regulated pollutant or combination of regulated pollutants, or who is one of 28 specific industries listed in the state regulations and will emit 100 tons per year of a regulated pollutant.

Major = A source which emits, or has the potential to emit, **100 tons or more** per year of any air pollutant.

Minor = A source which emits, or has the potential to emit, **less than 100 tons** per year of any air pollutant.

State Operating= Application for permit written pursuant to 9 VAC 5-80-800.

Administrative Consent Agreement = An agreement that the owner or any other person will perform specific actions to diminish or abate the causes of air pollution for the purpose of coming into compliance with regulations, by mutual agreement of the owner or any other person and the Board.

Administrative Amendment = Changes made to the permit to clarify or correct an issued permit. For example, equipment references, improved control equipment, reductions of allowed emissions below the exemption levels, etc.

Exemption = Facilities meeting are exempted from permitting requirements by exemption levels defined in 9 VAC 5-80-11.

Federal Operating (Title V) = a source that emits **10 tons or more** per year of any hazardous air pollutant, **or 25 tons** per year of any combination of hazardous air pollutants or emits criteria pollutants above major source levels.

Acid Rain (Title IV) = tightens the annual emissions limits for SO<sub>2</sub> and NO<sub>x</sub> which are imposed on large higher emitting electric utility plants and sets restrictions on smaller, cleaner plants fired by coal, oil, and gas.

**OFFICE OF AIR PERMIT PROGRAMS  
PERMITS PENDING REPORT FOR  
VIRGINIA'S COASTAL RESOURCES MANAGEMENT PROGRAM**

Permits pending as of **March 31, 2011**

PERMIT TYPE	NUMBER OF PERMITS PENDING
PSD & NA	0
Major	0
Minor	28
Administrative Amendment	4
Exemptions	28
State Operating	7
Federal Operating (Title V)	5
Acid Rain (Title IV)	0
Total Permits Pending	<u>72</u>

Note: The information provided for this report includes data from the Northern Virginia Regional Office, Piedmont Regional Office and Tidewater Regional Office only.

**OFFICE OF AIR PERMIT PROGRAMS  
PERMITS WITHDRAWN AND APPLICATIONS DENIED REPORT FOR  
VIRGINIA'S COASTAL RESOURCES MANAGEMENT PROGRAM**

Period: **October 1, 2010 – March 31, 2011**

PERMIT TYPE	NUMBER OF PERMITS WITHDRAWN	NUMBER OF APPLICATIONS DENIED
PSD	0	0
Major	0	0
Minor	4	0
Administrative Amendment	1	0
Exemptions	0	0
State Operating	0	0
Federal Operating (Title V)	0	0
Acid Rain (Title IV)	0	0
Total Permits Rescinded	<u>5</u>	<u>0</u>

Note: The information provided for this report includes data from the Northern Virginia Regional Office, Piedmont Regional Office and Tidewater Regional Office only.

**e) DEQ – Air Program Enforcement and Compliance**

DEQ continues to apply both informal and formal enforcement measures in its air enforcement program. Reference Table 2, below.

Informal measures include Requests for Corrective Action, Informal Correction Letters, Warning Letters, and Letters of Agreement. These actions are used in those cases where non-compliance is not significant in nature and where compliance can be achieved in a short period of time. During the six-month period beginning October 1, 2010, and ending March 31, 2011, DEQ issued one Informal Correction Letter, 28 Requests for Corrective Action, and 15 Warning Letters.

Formal enforcement actions are used in those cases where non-compliance is more serious or may take a significant amount of time to correct. Formal measures

generally involve the issuance of a Notice of Violation and negotiation of a Consent Order, or an Executive Compliance Agreement in the case of a state agency. In some cases, Unilateral Orders or court orders may be pursued. Between October 2010 and March 2011, DEQ initiated 14 new formal enforcement actions via issuance of Notices of Violation. The Agency issued eight Consent Orders; these orders assessed a total of \$102,639.66 in civil charges.

**Table 2**

<b>Measure</b>	<b>Action Type</b>	<b>Count</b>	<b>Total Civil Charges Assessed</b>
Informal	Requests for Corrective Action	28	n/a
Informal	Informal Correction Letter	1	n/a
Informal	Warning Letters	15	n/a
Formal	Notices of Violation	14	n/a
Formal	Consent Orders	8	\$102,639.66
<b>Total</b>		<b>66</b>	<b>\$102,639.66</b>

## **2) VIRGINIA MARINE RESOURCES COMMISSION (VMRC)**

### **a) VMRC – Habitat Management Division**

During the period October 1, 2010 through March 31, 2011 the Habitat Management Division received 862 applications for projects involving State-owned submerged lands, wetlands or dunes. These applications were for projects such as piers, boathouses, boat ramps, marinas, dredging and shoreline stabilization. As the clearinghouse for the Joint Permit Application all applications were assigned a processing number by the Division and forwarded to the appropriate agencies, including, local wetlands boards, the Norfolk District of the U.S. Army Corps of Engineers, the Department of Environmental Quality, VIMS and others as necessary.

A public interest review was initiated and site inspections were conducted for those projects requiring a permit from the Marine Resources Commission. Likewise, Habitat Management staff also conducted site inspections for all projects requiring a local wetlands board permit and evaluated each local board decision for Commissioner review. Habitat Management staff also conducted compliance inspections on permits issued by VMRC and local wetlands boards. Five sworn complaints were issued during the period.

The Habitat Management Staff completed actions on 841 applications received during the period. Action on most applications was completed within 90 days after they were received. As such, a number of the actions taken during the period were for applications received prior to October 2010. Similarly, those applications received near the end of the current reporting period are still under review. Habitat Management Staff also issued 40 general permits for Virginia Department of Transportation projects.

In addition to staff actions, the Full Commission considered 79 projects. During the reporting period the Commission considered 25 protested projects or projects requiring a staff briefing, including one appeal of a local wetlands board decision. The Commission also approved 54 projects over \$50,000.00 in value for which staff had completed the public interest review and for which there was no objection.

#### **b) VMRC – Fisheries Management Division**

At its October 2010 meeting, the Virginia Marine Resources Commission (VMRC) requested a November public hearing to establish a Restricted Summer Flounder Endorsement License which would provide an allocation of the commercial offshore summer flounder quota to qualifying hook-and-line licensees.

At its November 2010 meeting, VMRC established the Restricted Summer Flounder Endorsement License for qualifying commercial hook-and-line fishermen, with a 200-pound vessel trip limit.

At its December 2010 meeting, VMRC requested January 2011 public hearings to establish the 2011 recreational and commercial striped bass harvest quotas, and to eliminate redundant mandatory reporting requirements of summer flounder bycatch and discards.

At the January 2011 meeting, VMRC requested February public hearings to establish the 2011 summer flounder recreational measures, and to establish a 2011 bycatch allowance for American shad. VMRC enacted an emergency regulation to establish the 2011 black sea bass directed and bycatch fishery quotas, and requested a February public hearing to limit the black sea bass bycatch allowance and to remove the regulatory language that allows transfers of bycatch quota to the directed fishery. The 2011 striped bass recreational and commercial striped bass quotas were established as 1,430,316 pounds per fishery. VMRC also amended the summer flounder directed offshore fishery regulation to remove duplicative reporting requirements of bycatch and discards, and to enact a 10,000 pound vessel trip limit for each 15-day period beginning March 7.

At its February 2011 meeting, VMRC established the 2011 summer flounder recreational measures as follows: a 17 ½” minimum size limit, 4 fish possession limit, and no closed season. VMRC also established the 2011 American shad limited bycatch allowance. A March public hearing was requested to lower the recreational speckled trout possession limit December through March.

At its March 2011 meeting, VMRC lowered the recreational speckled trout possession limit from ten fish to five fish for the December-March period, with an allowance of only one fish greater than or equal to 24 inches. VMRC enacted an emergency regulation to allow commercial summer flounder trawlers to offload product

up to 9pm. An April public hearing was requested to establish the 2011 commercial horseshoe crab quota and other horseshoe crab conservation measures.

### c) VMRC – Law Enforcement Division

Enforcement under "Other Agency" refers to summons issued for other agencies' laws, code or regulation sections. The majority of the summons in this category are for DGIF regulations on boating safety laws, expired boat registration, no life jackets, flares, etc.

Summons under "Police Powers" are all criminal vs fisheries. These are the reckless driving, drunk driving, driving without a license/ suspended license, shoplifting, possession of cocaine, marijuana, etc.

### VIRGINIA MARINE POLICE ARRESTS/CONVICTIONS SUMMARY BY CATEGORY

REPORT FORMAT: FEDERAL FISCAL YEAR      AREA: ALL AREAS  
START PERIOD: 10/01/2006  
END PERIOD: 09/30/2011



Category	2006/2007		2007/2008		2008/2009		2009/2010		2010/2011	
	Convictions	Arrests	Convictions	Arrests	Convictions	Arrests	Convictions	Arrests	Convictions	Arrests
Buyers	4	5	10	11	1	1	2	3	0	0
Casting Garbage/Trash	1	1	0	0	0	0	0	0	0	0
Clams	4	4	0	1	1	1	3	5	0	0
Commercial Fishing License	16	21	16	25	6	9	3	5	1	1
Conchs	0	0	9	9	7	7	1	1	0	0
Crabs	69	81	138	172	93	111	65	75	7	7
Federal Violation	94	97	0	6	0	18	1	4	0	0
Fish	298	364	271	319	160	205	111	137	29	34
Freshwater Fishing without a license	12	13	1	1	10	10	13	13	2	2
Habitat/Wetlands	2	2	0	0	0	0	0	0	0	0
License Tags	7	8	3	3	1	2	1	2	1	1
Mandatory Reporting	4	8	0	0	0	0	0	0	0	0
Misc	2	2	1	1	0	0	0	0	0	0
Non-residents	0	0	0	1	0	0	0	0	0	0
NSSP	0	0	3	3	0	0	8	8	0	0
Other Agencies	592	624	435	481	279	322	239	273	22	26
Oysters	56	68	54	72	31	39	55	70	27	30
Piers	0	0	0	0	0	0	0	0	0	0
Police Powers	90	107	61	68	42	52	37	46	3	6
Removal of Obstructions	6	7	4	4	1	1	0	3	0	0
Resisting officer	1	4	2	3	0	0	0	0	0	0
Shellfish	0	0	0	0	1	2	4	4	2	4
SW Recreational Licenses	481	496	309	331	175	196	132	151	7	20
<b>TOTALS:</b>	<b>1739</b>	<b>1912</b>	<b>1317</b>	<b>1511</b>	<b>808</b>	<b>976</b>	<b>675</b>	<b>800</b>	<b>101</b>	<b>131</b>
<b>PERCENT OF CONVICTIONS:</b>	<b>90.95%</b>		<b>87.16%</b>		<b>82.79%</b>		<b>84.38%</b>		<b>77.10%</b>	

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### **3) VIRGINIA DEPARTMENT OF HEALTH (VDH) – DIVISION OF SHORELINE SANITATION**

From October 1, 2010 through March 31, 2011, the VDH shellfish program had 1114 acres of shellfish grounds closed to harvesting. There were 2223 acres of shellfish grounds reopened.

The Department received and reviewed a total of 27 VMRC Permit Applications, and processed as follows:

Seven (7) of the Permit Applications needed action in the Marina Program.

Eighteen (18) applications were approved based on meeting the requirements of providing adequate facilities.

Two (2) applications were denied because of inadequate facilities.

This includes statistics on applications for sanitary facilities at marinas and other places where boats are moored.

### **4) Department of Conservation and Recreation (DCR)**

#### **a) DCR - Division of Soil and Water Conservation**

The Department of Conservation and Recreation (DCR), Division of Soil and Water Conservation (DSWC) administers numerous enforceable and non-enforceable programs that help the Commonwealth of Virginia manage its coastal resources. The following is a summary of key program activities conducted by DCR staff during the period of October 1, 2009 through March 31, 2010.

#### **Regulatory Programs**

##### **Stormwater Management Program**

No report at this time

##### **Nutrient Management**

DCR Nutrient Management Staff have been active in developing and reviewing nutrient management plans and other nutrient reduction activities to achieve the Commonwealth's nutrient reduction commitments of Chesapeake Bay tributary strategies. In the coastal zone of Virginia, DCR staff developed nutrient management plans covering 193929 acres during the reporting period. The plan acreage developed by coastal watershed is summarized in the following table:

Basin	Crop	Hay	Pasture	Specialty	Turf and Landscape	Total
Albermarle Sound	11,679	0	0	128	0	11,807
Atlantic Ocean	8,376	0	0	0	0	8,376
Chesapeake Bay Coastal	30,029	169	103	107	0	30,408
Chowan	9,692	362	62	0	0	10,117
James	5,663	4	25	60	19	5,770
Potomac	22,948	1,583	255	67	11	24,864
Rappahannock	55,279	1,146	262	714	3	57,404
York	40,810	2,478	736	1,186	4	45,183
Total	184,476	5,742	1,443	2,262	36	193,929

### **Non-Regulatory Programs**

#### **Coastal Nonpoint Source Program**

The responsibility of the Coastal NPS Program Manager is to coordinate the Coastal Nonpoint Source Program implementation and administration of grants and grant budgets and provide technical support to Division of Soil and Water, VDCR relating to coastal zone ecology, management, and restoration. The position continues to serve as a liaison between DCR the Center for Environmental Studies at VCU and the VA Coastal Management Program to promote joint, applied research and outreach projects, coastal nonpoint source pollution, coastal zone ecology, management, and restoration.

For the grant reporting period, the Environmental Analyst at the Virginia Commonwealth University continued to serve as the Coastal NPS Program Manager and implement the Coastal NPS Program at the Virginia Department of Conservation and Recreation. The focus of the Coastal NPS Program is the continued expansion of the role and services of the Virginia Network for Education of Municipal Officials (VNEMO) in the Coastal Zone.

The Coastal NPS Program Manager continued to implement the VNEMO Program to support the Sustainable Community Planning Focal Area Projects, integrate the Chesapeake Bay TMDL Watershed Implementation Plan for local government process and implement the National Fish and Wildlife Foundation Grant at the Science Museum of Virginia.

VNEMO, in coordination with Chesapeake NEMO, has continued a strong role with the implementation of the project in coordinating specific roles and responsibilities within the program delivery and context of the Shoreline Project, under the guidance of the NVRC, the VNEMO client. VNEMO accessed the NOAA Coastal Services Center to provide survey development and data analysis for the residential survey portion of the

project. The NVRC collected the relevant data utilizing a web-based approach and the NOAA CSC developed a data cataloging form and is assisting in the analysis of the data. The VNEMO Program Manager also began to work with the NVRC to conduct public listening sessions around Climate Change and Sea Level Rise in Northern Virginia and assisted as a process facilitator in the sea level rise public listening sessions in the Virginia Beach Area.

The Coastal NPS Program Manager was requested by VDCR to implement a training program to improve the capacity of the field staff in implementing outcome based technical assistance for local governments, following the model of the VNEMO Program. This initiative is intended to prepare the VDCR staff for the likely increases in requests for technical assistance from local government when the CBTMDL and VA SWM Regulations are implemented. The VNEMO Program Manager ascertained the NOAA Coastal Services Center to conduct a two-day workshop on Public Issues and Conflict Management This was held in October, 2010. Participants included the VDCR field staff from the Divisions of Soil and Water, Chesapeake Bay Local Assistance, and Natural Heritage; VDEQ Education and Outreach Program; VIMS Coastal Resources Center and the Coastal Planning District Commissions.

The Coastal NPS Program Manager continued the management of the \$1.7M, NFWF funded project at the Virginia Science Museum. The Manager continues to share the Project Management role with the Director of Science at the Museum. Project leadership outlined the overall project and identified teams to begin the preparation of engineering designs, monitoring program design and educational and outreach materials. During the period, the CNP Manager oversaw commencement of the Combined Sewer Overflow study to articulate the positive ecological, monetary and management affects of LID on CSO management.

The VNEMO Program directly assisted the Division of Natural Heritage in the development of an outreach and engagement strategy around the Priority Conservation Areas data, later to be named the Coastal VA Ecological Value Assessment (VEVA). This database effectively integrates the INSTAR stream database at VCU.

The CNP Program Manager partnered with the VA DCR Public Communications Office in the development of the new Chesapeake Club campaign, "Plant More Plants."

As a subtask under this grant, the VA Department of Forestry worked within three coastal communities to determine percent canopy cover. The Virginia Urban Tree Canopy Project has been implemented to support the needs of Virginia's localities to establish and attain canopy cover goals. The first step in this project is to estimate the baseline tree canopy cover for each jurisdiction. The next step is to summarize the baseline estimate by property parcels and zoning categories provided by the localities. Finally, a report is generated. This report summarizes the results of the UTC analysis. The locality is provided with all new and used spatial data layers. The summary report is published to the Virginia Urban Tree Canopy Analysis website ([http://www.gep.frec.vt.edu/VA\\_utc.html](http://www.gep.frec.vt.edu/VA_utc.html)).

To support this effort, geospatial analysts with the Virginia Geospatial Extension Program and the Virginia Department of Forestry are using 1-meter resolution imagery acquired through the United States Department of Agriculture's (USDA) National Agriculture Imagery Program (NAIP)

<http://www.fsa.usda.gov/FSA/apfoapp?area=home&subject=prog&topic=nai>. This multispectral imagery consists of 4-bands (three visible bands and one near infrared band) that were acquired during the summer of 2008. Virginia UTC analysts then classify the imagery, using ERDAS Imagine, into four land cover classes. The four classes consist of water, impervious, non-tree vegetation, and tree canopy. The resulting land cover layer is then checked for accuracy using 2006 – 2007 Virginia Base Mapping Program Imagery for the area. The land cover classification must exceed 90 percent overall accuracy before it is ready for summarization by parcels and zoning boundary data layers.

Urban Tree Canopy analysis was conducted for Newport News (57.7 sq mi), Ashland (7.2 sq mi) and Fredericksburg (10.5 sq mi). All lands excluding military and federal lands were analyzed, totaling 75.4 square miles.

**Newport News** was determined to have 38 percent tree canopy cover when associated with all land area within the locality. This assessment achieved an overall accuracy of 93.6 percent. When summarized by parcels, Newport News has 40.6 percent Existing UTC with a theoretically possible increase in vegetated areas of 28.3 percent. All the reports are located at [http://gcp.frec.vt.edu/va\\_utc.html](http://gcp.frec.vt.edu/va_utc.html).

**Ashland** was determined to have 52 percent tree canopy cover when associated with all land area within the locality. This assessment achieved an overall accuracy of 95.6 percent. When summarized by parcels, Ashland has 54.3 percent Existing UTC with a theoretically possible increase in vegetated areas of 26.2 percent.

**Fredericksburg** was determined to have 44 percent tree canopy cover when associated with all land area within the locality. This assessment achieved an overall accuracy of 93 percent. When summarized by parcels, Fredericksburg has 44.3 percent Existing UTC with a theoretically possible increase in vegetated areas of 24 percent.

With additional funding from the Chesapeake Bay Program and USDA Forest Service U&CF funds, the geospatial analysts have been able to implement UTC assessments for other communities in the tidewater region of Virginia including, Richmond, Arlington, Chesapeake, Norfolk, Virginia Beach and Portsmouth is in process

## **b) DCR – Division of Natural Heritage**

This report lists projects and activities conducted by the Department of Conservation and Recreation, Division of Natural Heritage (DCR-NH) during this period that were not funded by or otherwise reported to the VCZMP.

## Natural Areas Protection

### *Eastern Shore Resource Vulnerability Meeting – 1/12/11*

DCR Natural Heritage staff attended a meeting hosted by Eastern Shore National Wildlife Refuge (ESNWR) and NatureServe. NatureServe has been contracted by the USF&WS to develop a handbook that will aid refuge systems to incorporate the impacts of climate change into the refuge's management plans. The ESNWR has been selected as one of two refuges in the nation as part of this pilot. The current effort will work through the process to complete the draft handbook designed in Phase I. DCR's Natural Heritage Program will play an important role in collecting and developing natural resource data needed to complete the handbook. Other partners at the meeting included representatives from state, university, non-profit, and federal agencies.

## Natural Area Preserves Stewardship

### *Eagle Scout Project Completed at Crow's Nest. – 1/31/11*

Jay Buckle of Scout Troop 218 in Stafford, Virginia has completed his Eagle Scout project at Crow's Nest Natural Area Preserve. Jay tackled an ambitious effort that entailed demolishing and removing an old shoreline dock structure that was in poor repair. He also built and installed a new waterfowl hunting blind used by hunters participating in DCR's managed lottery waterfowl hunts at the preserve. Jay's hard work and dedication has resulted in a cleaner shoreline as well as better hunting opportunities at Crow's Nest Natural Area Preserve. His project accomplished much needed and valuable work that otherwise would not have happened in such a timely fashion due to the current lack of staff at the preserve.



Eagle Scout Jay Buckle and DCR's Greg Toussaint



Hunting blind built by Jay Buckle at Crow's Nest

### *Mutton Hunk Fen Natural Area Preserve Restoration Underway – 2/7/11-2/14/11*

Restoration is underway at Mutton Hunk Fen Natural Area Preserve. In the week of February 7<sup>th</sup>, DCR Natural Heritage staff drilled holes every 35 feet in rows to prepare for shrub planting. 1200 holes were drilled in one day with 1860 in the following days. A tractor-trailer filled with shrubs arrived the next week for planting.



DCR Natural Heritage staff drilling holes for planting

On Valentine's Day, DCR Natural Heritage staff welcomed the volunteer help of AmeriCorps and Master Naturalists to begin a two-year long project to restore 200 acres of migratory songbird and wetland habitats on Mutton Hunk Fen Natural Area Preserve. The preserve, located in Accomack County on the seaside of the Eastern Shore, is part of a globally important coastal migration corridor for the passage of millions of shorebirds, songbirds, raptors, seabirds, waterfowl, and wading bird species. Phase I will provide immediate stopover habitat for migrating birds by providing cover and resting perches benefiting songbirds such as the prairie warbler, but also resident birds and wildlife such as the northern bobwhite and bald eagle. More than 2,300 Wax Myrtle shrubs, which are native to the shore and loved by birds, were the first to be planted. The project is funded with a North American Wetlands Conservation Act (NAWCA) grant received by The Nature Conservancy in cooperation with the Southern Tip Ecological Partnership. DCR staff is especially appreciative of the effort put in by the Eastern Shore Chapter of the VA Master Naturalists. Members of the chapter contributed over 250 volunteer hours to the project. A total of 360 oak saplings and 2350 wax myrtle shrubs were planted on 75 acres of former farm fields within the preserve



Valentine's Day planting team sporting a giant heart that reads (using scientific names)  
"Dendroica loves Morella" (Warblers love Wax Myrtles)



DCR staff admire last oak tree planted  
Migratory Songbird Habitat Enhancement Project.

*Longleaf Pine Restoration Work Continues on State Natural Area Preserves – 3/7/11*

During the week of March 7<sup>th</sup>, another major step was taken by DCR's Natural Heritage Program to restore longleaf pine and associated fire-dependant species within their former range in Virginia. Approximately 55,000 containerized longleaf seedlings, grown in partnership with VA Department of Forestry from seed collected from the few remaining wild Virginia longleaf pines, were planted on 100 acres of sandy uplands near the Blackwater River at Antioch Pines Natural Area Preserve in Isle of Wight County. A loblolly pine plantation was harvested previously to make room for the longleaf seedlings. The area was burned in the winter of 2010-11 to prepare the site for planting. A contractor was then hired to complete the extensive planting job, which required just three days. Antioch Pines NAP contains some of the last few mature native longleaf pine remaining in Virginia, and also supports at least 17 rare plant species associated with frequently burned longleaf pine savannas. This preserve will play a prominent role in the restoration of this species to its historic northern range limit. Another 102 acres of longleaf pine restoration is planned at Antioch Pines for fall 2011 – winter 2012. This work is being supported by funding from NRCS under a WHIP (Wildlife Habitat Incentives Program) contract. DCR has planted some 114,000 native longleaf pine seedlings on 225 acre of State Natural Area Preserve to-date.



*Professional Trail Builders Association Conference- Asheville, N.C. – 3/25/11*

Virginia's Natural Area Preserve trail system has the potential for trail growth in the future. Our current trail system needs ongoing maintenance. In order to stay on the forefront of trail design and sustainability, it was important to attend this conference. The sessions attended by a DCR Natural Heritage representative included a number of different breakout sessions that related to all aspects of trail building guidelines, comparisons of trail building, assessments, GPS and GIS applications, trail designing, trail science researching, and strategic trail planning.

Inventory



Natural Heritage Ecologist, Karen Patterson, Southeast Regional Steward, Darren Loomis, and State Parks District Resource Specialist, Erick Mollen, collecting data from a Maritime Wet Grassland.

*False Cape Vegetation Sampling – 10/12/10*

DCR Natural Heritage Ecologists, Karen Patterson and Gary Fleming, teamed up with Southeast Regional Steward, Darren Loomis, and State Parks District Resource Specialist, Erick Mollen for three days of ecological inventory at False Cape State Park / Natural Area Preserve. The work targeted Maritime Wet Grasslands, in an effort to document examples of this globally rare natural community in the park, and also to better understand the compositional variation within examples of this community. The team collected data from 16 vegetation sampling plots and collected information on the size, quality, and landscape context of the community occurrence in the park. The team also collected information on other maritime communities occurring in the park that will be used to update Natural Heritage databases, and inform future management decisions at the site.

*Rare Southeastern cane borer moth discovered – 10/15/10*

DCR Natural Heritage field zoologist Anne Chazal found a rare and yet to-be-described species of moth called the Southeastern cane borer moth (*Papaipema* sp. 3, G4 S2S3) in Virginia Beach. This moth depends upon switch cane (*Arundinaria tecta*) to complete its life cycle. The caterpillars, which hatch in the spring, bore into the switch cane, where they feed and remain hidden from predators until they pupate. In the late summer/fall, the adult moth emerges. Switch cane grows in dense stands, often called 'canebrakes', in moist bottomland soils. Forest clearing and hydrology alterations have decreased the available habitat for canebrakes and thus for the Southeastern cane borer moth. Other species of Lepidoptera in Virginia also use switch cane as a host plant:

Southern Pearly Eye, Creole Pearly Eye, Lace-winged Roadside-skipper, Reversed Roadside-skipper, and the Carolina Roadside-skipper.



sensitive joint-vetch

*Draft five-year status review of sensitive joint-vetch submitted to USFWS – 3/11/11*

A five-year status review of the federally listed Threatened plant sensitive joint-vetch (*Aeschynomene virginica*, G2/S2/LT/LT), was conducted by the DCR Natural Heritage field botanist, and the draft report was submitted to the Virginia Field Office of the U.S. Fish and Wildlife Service. Such status reviews are conducted in order to assess the current status of a species since its listing or the last review, in light of new information relating to the species biology, population trends, and threats. This information is then evaluated to determine if a change in the listing status is warranted. Sensitive joint-vetch is a tall annual herb in the legume family (Fabaceae) that grows mostly in fresh to slightly brackish tidal marshes, also sometimes in more disturbed wetlands, particularly in North Carolina. It is currently found in New Jersey, Maryland, Virginia, and North Carolina and was also known historically from Delaware and Pennsylvania. Virginia supports the majority of the occurrences, located on six drainages: the Potomac, Rappahannock, Mattaponi, Pamunkey, Chickahominy, and James Rivers. Sensitive joint-vetch was listed in 1992 as threatened under the Endangered Species Act, as amended. A recovery plan summarizing the status of the species was completed in 1995; no subsequent review has been written. To gather information generated since 1995, the rangewide occurrence data on the NatureServe website was examined and botanists from other Natural Heritage programs, researchers, and relevant public and private land managers were contacted. Populations of sensitive joint-vetch can exhibit widely fluctuating plant numbers from year to year, making assessment of a given location challenging without yearly monitoring. However, one to several at least periodically robust populations persist in all of the four states except North Carolina where it is now considered to be very imperiled, reduced to dwindling populations in disturbed wetlands in ditches and agricultural fields. Serious threats to this species exist, notably loss of habitat from sea level rise, invasion by common reed (*Phragmites australis*), and development, and its range appears to continue to contract, with the apparent loss of some small colonies. The best available current information for this species, however, does not support a change in listing status at this time, but consistent monitoring is needed to more accurately assess this vulnerable species.

*Inventory and Classification of Bottomland and Non-Alluvial Wetland Forests in Southeastern Virginia.* – 3/18/11

DCR Natural Heritage Ecologists submitted a preliminary report to The Nature Conservancy and other cooperators, outlining findings from a 2010 inventory of forested wetlands on selected sites in southeastern Virginia. The report briefly describes 11 natural communities that were classified based on an analysis of data from 350 quantitative vegetation plots, and summarizes the significant Natural Heritage elements found on 30 sites surveyed in the Summer of 2010. Additional survey work is planned for 2011 and a final report will be compiled in the Spring of 2012.

**Education and Outreach**

*Savage Neck Dunes field event and Eastern Shore Birding Festival* – 10/12/10

A steady stream of visitors toured the 298-acre Savage Neck Dunes Natural Area Preserve on Saturday October 9, many for the first time, having learned of its presence via Eastern Shore and VA Pilot articles and the Eastern Shore Birding Festival activities. The field day was part of a statewide series designed to help raise awareness of the Commonwealth's Natural Area Preserve System. As part of the Birding Festival, DCR Natural Heritage Zoologist Dr. Steve Roble lead a filled-to-capacity workshop on dragonfly identification

*Firefighter Training* – 10/6/10-10/8/10

DCR Natural Heritage Eastern Fire Leader Rebecca Wilson, assisted US Fish and Wildlife staff from the Great Dismal Swamp by serving as an instructor for S-130 Firefighter Training. This is the basic wildland fire training course required of all firefighters before they can participate on prescribed burns or wildland fire suppression activities. Wildland fire training in the U.S. has been standardized by the National Wildfire Coordinating Group (NWCG) since the 1970s and the same basic courses are given across all agencies involved in wildland firefighting and controlled burning. This offering at the Great Dismal Swamp involved three days of in-class training, one day of hands-on field training and a live-fire prescribed burn exercise on the final day of class. Students participating in the class came from a variety of state and federal agencies including DCR State Parks and Natural Heritage; VA Department of Game and Inland Fisheries; US Fish and Wildlife Service; US Forest Service; and AmeriCorp.

*Natural Area Preserve Field Day Hughlett Point Natural Area Preserve* – 10/15/10

The DCR Division of Natural Heritage hosted a field day event at Hughlett Point NAP in Northumberland County on Friday, October 15, 2010. The event was one of six such events being held across the state showcasing and building public awareness of the Virginia Natural Heritage Program and the Natural Area Preserve System. The field day highlighted the completion and dedication of the newly rebuilt observation deck at the Preserve, a popular area for bird watchers and visitors to obtain a natural view of the Chesapeake Bay and the preserves beach, marsh, and forest habitats. The deck dedication was followed by a hike on the Preserve.

*Presentation to the John Clayton Chapter of the Virginia Plant Society – 11/19/10*

DCR Eastern Shore Region Natural Heritage Steward, Dot Field, gave a presentation on the flora of the Eastern Shore Region Natural Area Preserves to the John Clayton (Yorktown) Chapter of the Virginia Native Plant Society. The presentation focused on plant adaptations for survival in coastal edge communities and the sequence of vegetative progression starting from the upper beach, across uplands, and into marsh. Approximately 25 chapter members attended and expressed interest in a field trip to visit Eastern Shore Natural Area Preserves.



Bat display

*Science Museum of Virginia Fall Festival – 10/23/10*

The Project Review Coordinator participated in the Fall Festival at the Science Museum in Richmond on October 23<sup>rd</sup>. Approximately 75 adults and children were in attendance at the *Science Museum of Virginia's* Green Acre Farm. The display included an overview of DCR's Natural Heritage Program and information on bats including the different species of bats in Virginia, tools for collecting data on bats and white nose syndrome. Heritage zoologist Art Evans also guided a bug tour of the Green Acre Farm.

*Daughters of the American Revolution Presentation – 2/25/11*

Eastern Shore Region Steward, Dot Field, gave a presentation on the Virginia Natural Heritage Program at the monthly meeting of the Eastern Shore Chapter of the Daughters of the American Revolution (DAR). The members were enthusiastic about the conservation work being accomplished by DNH and very interested in the opportunity to visit public access-friendly Natural Area Preserves throughout the Commonwealth.

## Land Conservation Information – 3/11

DCR Heritage staff continue to track permanently protected lands in Virginia and have the following to report\*.

Acres protected 10/1/10 – 3/31/11 (coastal zone only): 4,853.58 acres

### Natural Heritage Data Management Totals for FY2010

Activity 10/01/10-03/31/11

New Mapped Locations (EOs) –22  
Updated Mapped Locations (Eos) – 92  
New Conservation Sites – 16  
Updated Conservation Sites – 94  
QC Mapped Locations (Eos) –  
QC Conservation Sites

Total Number in Database 03/31/11:  
Animal Mapped Locations (EOs) – 1,170  
Plant Mapped Locations (EOs) – 1,213  
Community Mapped Locations - 354  
Conservation Sites - 788  
Managed Areas: 7,555  
Mapped Tracts: 9,087

### c) DCR – Division of Planning and Recreation Resources

This report does not contain information on the Captain John Smith Trail based on the lack of information provided to the VACZM Program by the DCR Division of Planning and Recreation Resources.

Department of Conservation and Recreation (DCR) staff has worked to complete a draft concept plan for the James River Heritage Trail (from Chesapeake Bay to Iron Gate). The plan includes a proposed on-road bicycle route along the length of the river (both sides of the river east of I-95). This plan is undergoing internal review before public release. In addition, the remaining portions of the Virginia Capital Trail are in design and should be complete by 2014. VDOT and DCR have discussed the possibility of turning over management of this facility (and the required operating funds) to DCR when the trail is complete. Partnerships with appropriate federal partners are expected.

The on-road route for the East Coast Greenway's Historic Coastal Route has been defined and will be published in a Traveler's Guide by Oct. 2012. This route can be viewed online at:

<http://maps.google.com/maps?f=q&hl=en&sl=37.0625,-95.677068&ssp=73.963864,94.746094&q=http://greenway.org/maps/ECG-VA2.kml&ie=UTF8>. An off-road section of the trail connecting Virginia to North Carolina is being planned along the Dismal Swamp.

In addition to the John Smith Captain Chesapeake National Historic Trail, other national trails within Virginia's Coastal Zone include the Potomac Heritage National Scenic Trail, the Washington Rochambeau Revolutionary Route National Historic Trail, and the Star-Spangled Banner National Historic Trail. The 13th Conference on National Scenic and Historic Trails will be held this year in Abingdon, VA from May 15-19.

The Virginia route for the Southeast Coast Paddling Trail has been designated and will be posted on the DCR web site. States to the south, North Carolina, South Carolina and Georgia will continue to work on trail routes to complete the first interstate trail on the east coast. The Hampton Roads Planning District is offering regional support and communication with the Virginia localities. The National Park Service Rivers and Trails program staff will provide continuity and support communication between these states.

#### Virginia Scenic River Program

On March 15, 2011, Governor McDonnell signed a bill extending the Nottoway Scenic River Designation an additional 33 miles. On March 18, 2011, another bill was signed by the Governor extending the Appomattox Scenic River Designation an additional 13 miles (this bill had been held over from the 2010 General Assembly).

DCR staff presented information on the Scenic River Program to planning staff of Goochland and Powhatan Counties and Goochland County on March 2. There is interest scenic river designation along the James River where the river forms the boundary between Goochland and Powhatan Counties.

DCR has received a request from Mecklenburg County to initiate a study of the Meherrin River along its boundary to the point at the Brunswick County line where the river is currently designated.

#### **d) DCR- Division of Chesapeake Bay Local Assistance**

##### **Summary:**

During the reporting period, October 1, 2010 – March 31, 2011, the DCR Chesapeake Bay Local Assistance Division of DCR initiated the second round of evaluations to determine the level of local government compliance with land use and water quality provisions contained in the regulations pertaining to the Chesapeake Bay Preservation Act. The initial round of compliance evaluations was completed in September of 2010. Division has also continued to make progress on Advisory Reviews of the local codes and ordinances to identify the extent to which these ordinances address the protection of the quality of state waters. The following is a summary of activities for this period.

## Program Description

The Bay Act requirements fall into three implementation phases. Phase I consists of local governments designating and mapping Chesapeake Bay Preservation Areas (CBPAs) and adopting land use and development performance criteria to protect those features. CBPAs include Resource Protections Areas (RPAs) and Resource Management Areas (RMAs). RPAs are made up of tidal wetlands, tidal shores, nontidal wetlands connected and contiguous to tidal wetlands or perennial streams and a 100-foot fully vegetated buffer. RMAs include lands adjacent to RPAs that are made up of land features such as highly

### Elements of Local Chesapeake Bay program

1. Phase I – Map of Chesapeake Bay Preservation Areas and adoption of management program in local ordinances
2. Phase II – Adoption of water quality measures in Comprehensive Plans
3. Phase III – Review and revision of local codes for inclusion of specific standards that implement water quality performance criteria

### Comprehensive Plan Elements (partial list)

1. Location of Chesapeake Bay Preservation Areas
2. Physical constraints to development
3. Commercial and recreational fisheries and other aquatic resources
4. Shoreline and stream bank erosion problems
5. Existing & proposed land uses
6. Public and private waterfront access
7. Protection of potable water supply
8. Local policy on land use issues relative to water quality protection

erodible soils, steep slopes and floodplains. Roughly half of all the Tidewater localities have identified their entire jurisdiction as an RMA. Phase II consists of the incorporation of water quality protection measures into local comprehensive plans. Phase III involves the review and revision of local land use codes to include specific standards that implement water quality performance criteria.

In its review of local Bay Act programs, the Chesapeake Bay Local Assistance Board (CBLAB) adopts two kinds of determinations. When a locality is deemed consistent, it means the local ordinances are in place to designate CBPAs and to require that the performance criteria be met. When the Board deems a local program compliant, it means that the locality is properly implementing the required code or comprehensive plan provisions.

## Consistency Reviews

For the period covering October 1, 2010 – March 31, 2011, all 84 local Bay Act programs remain consistent with Phase I of the current Regulations. As indicated in previous reports, all 84 local comprehensive plans are also consistent with the Regulations.

## Compliance Evaluations

As previously reported there is only one locality that remains not fully compliant with the first round of compliance evaluations, although that locality has made significant progress toward full compliance. As a reflection of the progress made by localities on compliance with the Bay Act regulations, all 84 (100%) of the Tidewater localities have programs that meet the septic pump-out provisions of the Regulations. For the period covering 2009-10, 28,963 septic systems were pumped resulting in nitrogen load reductions of roughly 13,166 pounds. Also, all 84 (100%) of the Bay Act localities are

now ensuring that water quality best management practices are in place to reduce pollutants generated from land development and are further requiring that those BMPs are being adequately maintained. For FY '10, 37 local governments reported that 795 new BMPs were installed and being maintained that are treating 8,139 acres of land. The septic tank pump-out and BMP information is based on 2010 Annual Report information reported to the Department. The progress on water quality BMPs and pump-outs is expected to significantly increase when the 2011 Annual Report information is received in July.

### **Advisory Code and Ordinance Reviews**

As stated in previous reports, Chesapeake Bay Local Assistance staff initiated Phase III of the Bay Act, requiring localities to review and revise their codes and ordinances for the inclusion of specific standards that minimize impervious cover, minimize land disturbance and maintain indigenous vegetation. The advisory review process, which is the first component of Phase III, began in September of 2009 and uses two checklists as screening tools in the review the local ordinances. A Plan and Plat Consistency Review Checklist helps determine if a locality has addressed the six plan and plat provisions that must be contained in local ordinances, as they are specifically required by the Regulations. The Checklist for Advisory Review of Local Ordinances determines if there are adequate provisions to address the three performance criteria and contains numerous examples of requirements that may be contained within a locality's land development ordinances. As of March of 2011, 53 advisory reviews have been completed and an additional 10 are underway. Completion of the remainder will continue through the second quarter of 2011.

### **Site Plan Reviews**

For the reporting period, 150 federal and/or state Environmental Impact Reports, Environmental Assessments, and Environmental Impact Statements were reviewed and commented upon. Staff routinely responds to technical inquiries from local government staff and from consulting firms in conjunction with these reviews. Several inquiries are typically fielded in any given week, which generally involve questions regarding water quality BMPs, buffers or interpretation of the technical aspects of the regulations and guidelines. In addition to the review of state and federal projects, staff reviewed 7 site plans at the request of local governments. The Chesapeake Bay Preservation Act contains a requirement that the Department provide site plan review assistance when requested by a locality.

### **Technical Assistance and Outreach**

DCBLA continues to actively provide technical assistance to local staff as well as education and outreach to local staff, elected and appointed officials, consultants and advocacy groups. During the reporting period, Department staff conducted 14 technical assistance site visits, 11 education & outreach events and 3 training workshops in order to promote a greater understanding and implementation of the Chesapeake Bay Preservation Act. Further, DCBLA staff liaisons regularly attend meetings of and maintain productive working relationships with the 8 Planning District Commissions within Tidewater

Virginia. The staff liaisons also work closely with those PDCs to enhance local assistance efforts.

### **Next round of Compliance Evaluations**

As previously reported, Chesapeake Bay staff worked with CBLAB and its policy committee to revise the review elements of the next round of compliance evaluations. At its June 2010 meeting, the Chesapeake Bay Local Assistance Board adopted 31 review elements to be incorporated into the compliance review program. The approved review elements relate to specific provisions contained in the Chesapeake Bay Preservation Area Designation and Management Regulations. As designed by staff and approved by the Board, this compliance evaluation program will be the first time all Bay Act localities will undergo a comprehensive review of the provisions of the Bay Act Regulations. New review elements include soil & water quality conservation assessment for all agricultural land in local Chesapeake Bay Preservation Areas, a determination as to the status of the water quality provisions of the local comprehensive plans, and an evaluation as to how well local governments are ensuring that impervious cover is minimized, indigenous vegetation is maintained and land disturbance is minimized on approved development projects. Progress on this second round of compliance evaluations continues during the reporting period. Reviews of five local programs using this more comprehensive assessment are underway and will be presented to the Chesapeake Bay Local Assistance Board in June of 2011.

### **Key Projects**

During the reporting period, CBLA was tapped as the lead to undertake the significant responsibility of completing the Chesapeake Bay TMDL Phase II Watershed Implementation Plan. This has included significant involvement from staff liaisons and management.

## **5) Department of Game and Inland Fisheries (DGIF)**

### **Recreational Fishing:**

#### *1. Stream Monitoring, Adult Anadromous Fishes*

Weekly boat electrofishing for adult anadromous fish was begun in March 2011 on the James and Rappahannock rivers in the fall zones. The Chickahominy and Mattaponi rivers are also being sampled weekly this year. On the James, to date, American shad catch rates have been slightly higher than recent years and early hickory shad results have been typical. American shad are also starting to show up at Boshers Dam. Alewife and blueback herring numbers on all rivers sampled so far have been typical. Sampling will continue through late May.

#### *2. Boshers Dam Fishway*

In 2009, 100 American shad were counted using the fishway. This is up from only 62 in 2008 and only 37 in 2007 but still below the long-term average of approximately 200 per year. To date, it is estimated that at least 40 American shad used the fishway in 2010. Several days of video remain to be reviewed. For the 2010 data we

are only counting shad in the first 15 minutes of each hour and will apply a multiplication factor of four to generate an estimate. This will be tested statistically using previous years with full review.

### *3. Stream Monitoring, Juvenile Alosines*

Juvenile alosine sampling using a bow-mounted push net was conducted from June through October 2010 on the James and Rappahannock rivers. Boat electrofishing was also conducted in the upper James and tidal Rappahannock in the fall to collect shad and herring juveniles. Electrofishing is more effective for larger alosine juveniles later in the year when the fish are better at avoiding the push net. Sampling resulted in the collection of target species from both rivers.

Otoliths are extracted from the American shad juveniles and examined under a black light microscope to determine origin. Oxytetracycline treatment results in a visible ring in the otoliths under black light. In 2009, out of the 129 juvenile American shad otoliths examined from the Boshers pool (James River) 99.2% were of hatchery origin (5% wild in 2007 is the highest wild % on record). For the tidal Rappahannock, 87 otoliths were examined. Wild fish made up 93.7% and hatchery fish made up 6.9% of the sample. The average wild percentage in the tidal Rappahannock over the previous three years was 60%. Samples from 2010 are still being processed. Results will be presented in future reports.

### *4. Fish Passage Projects*

We were preparing to remove Harvell Dam from the Appomattox River, the first dam encountered by migratory fish. The VDGIF obtained sufficient funding from the USFWS and NOAA for removal. The previous owner had agreed, in principle, to the removal project but the new owner is not currently agreeable to removal. FERC license issues are still in question with this project. The VDGIF has been directed by the General Assembly to conduct an additional study to evaluate whether or not the existing fishway can be renovated and/or upgraded to meet fish passage requirements or if it is too expensive to try to still use the existing fishway and reconsider removal.

In October 2010 Riverton Dam was removed from the North Fork Shenandoah River in Front Royal. Removing Riverton Dam eliminated a boating hazard created by the dam and provided unimpeded passage for resident fishes and American eel. Charles Lake Dam was removed from Kimages Creek, a tidal tributary of the James River near Jordan Point. This removal is being monitored by Virginia Commonwealth University and VDGIF. To date, a few adult blueback herring and alewives and juvenile blueback herring have been found in the passive fyke net set in the mouth of the creek where the dam used to be.

### *5. American Shad Restoration Program*

Otoliths collected while monitoring adult American shad populations in the James (n=95) and Rappahannock (n = 3) rivers during the spring, 2010 spawning run were processed. The overall percentage of hatchery fish in samples collected in the vicinity of the James River fall line was 67%, which is very similar to the values observed in recent years. Just as in 2009, the age-structure of these samples was younger and less diverse than that observed from 2005-2007 (data for 2008 are substantially biased towards

males). Only two fish older than age 7 were found (one 9-year-old and one 10-year-old). Age classes 5 and 6 collectively represented 61% of the sample, whereas in 2009, age classes 4 and 5 were dominant (70%). Age classes 4-6 are typically dominant on the spawning grounds of most Mid-Atlantic rivers due to maturity schedules, however, this can fluctuate depending on year-class strength. In this case, summer flows were above average in 2004 and moderately below average in 2005. So, year-class strength may have been a little above average for those years, and this may explain their relatively high abundance in the spawning stock during 2009 and 2010. Overall, the average age was essentially unchanged from 2009, but much younger than that from 2005-2007 (2010 = 5.1 yr; 2009 = 5.2 yr; 2007 = 6.4 yr; 2006 = 7.5 yr; 2005 = 6.6 yr; 2004 = 5.4 yr; 2003 = 5.3 yr). As is typical, females were older than males. The average age of females dropped from 5.8 in 2009 to 5.5 in 2010. For males, the average was virtually unchanged (4.91 vs. 4.85).

Although our Fish Passage crew has been monitoring anadromous fish spawning runs in the Rappahannock River for ten years, 2010 was the second year in which an enhanced level of effort was expended to sample American shad due to the expectation that adult hatchery-origin fish from restoration stockings begun in 2003 would be returning to spawn. Despite the increase in electrofishing effort, a total of only three American shad were collected in 2010. The highest number of adult American shad collected by VDGIF from the Rappahannock River near the fall line during spawning runs was 12 in 2009. Recently, it was discovered that many American shad are being harvested as by-catch in a North Atlantic trawl fishery. In addition to the many summer droughts experienced over the last 15 years, which have impaired the survival of young-of-the-year American shad, this may explain some of the decline in the abundance of adult American shad during spawning runs in many East Coast river systems since 2003. These factors are also probably responsible for the lack of sexually mature hatchery-origin fish in the Rappahannock River during the spawning seasons of 2008-2010. Hopefully, something will be done soon to address this by-catch issue so that restoration stockings will have a chance to help rebuild the spawning stock in the Rappahannock River.

## **Wetlands:**

### *1. Mitigation Banking*

VDGIF continues to participate on the Inter-Agency Review Team that oversees stream and wetland mitigation banking and provide input on new banks all over Virginia, including the coastal zone. Numerous proposals have been made for new banks and/or additions to existing banks within the coastal region of Virginia during this reporting cycle.

### *2. Wetland Restoration*

VDGIF continues to have an active voluntary wetland restoration program. The program assists private, state, local, and federal government landowners to restore wetlands on their property. Landowners receive assistance with site selection, cost-share programs, restoration design, and permit issues. The Virginia Department of Game and Inland Fisheries is actively restoring wetland habitats in Virginia. Partnerships with

organizations such as The U.S. Fish and Wildlife Service's Partners for Fish and Wildlife Program, The U.S. Department of Agriculture's farm bill programs, Ducks Unlimited, The Chesapeake Bay Foundation, and many others have resulted in additional wetland acres restored. We also administer and utilize funds from the Virginia Migratory Waterfowl Stamp to provide assistance to non-profit organizations for wetland restoration and enhancement activities. These funds are provided from a mandatory stamp required of waterfowl hunters. To date, over 1000 acres of waterfowl habitat have been restored/enhanced in Virginia by utilizing these funds.

### **Land Acquisition:**

During this reporting period, VDGIF purchased the Florida Rock parcel of the larger Mattaponi Wildlife Management Area located in Caroline County. This parcel, in addition to adjacent parcel purchased prior to this reporting period, VDGIF has secured over 2,500 acres of riparian uplands and wetlands. Our partners for this project include the Dept. of the Army, Ducks Unlimited, The Nature Conservancy, and the Trust for Public Lands.

### **Geographic Information Systems/Data Management:**

GIS staff continued to maintain spatial datasets for wildlife resources in Virginia's Coastal zone. Specific layers that were updated include Wildlife Management Areas, threatened and endangered species waters, potential and confirmed reaches for species of greatest conservation need, eagle nest locations, Colonial waterbird locations, Anadromous fish use areas, and Bald eagle concentration areas and roosts. These updated layers were incorporated into the DGIF's Virginia Fish and Wildlife Information Service (VAFWIS), and the WERMS internet map service.

GIS Staff continued working on the cooperative project with Va. Dept. of Conservation and Recreation and Virginia Commonwealth University – Center for Environmental Studies and the Virginia Institute of Marine Science on the Coastal Virginia Ecological Value Assessment (formerly Priority Conservation Areas). This project was funded through the Virginia Coastal Zone Management Program – NOAA Grant NA10NOS4190205. DGIF GIS Staff reviewed the revised components of this tool including the integration of the marine/estuarine layer created by VIMS. GIS Staff participated in the working group and assisted with the development of outreach materials related to this project. Staff attended a panel discussion on this topic at the Coastal Partners workshop and has incorporated this data when evaluating land acquisition opportunities.

GIS Staff continued to support mobile data collection applications using a hand-held computer with a GPS receiver. These applications have included data collection from warm-water fish sampling and mussel surveys. These applications serve to increase accuracy and efficiency when collecting this data within the coastal zone.

GIS staff worked with DGIF biologists to develop layers to be used in the Wind Permit by Rule (PBR) Application development for small renewable energy projects. Sea turtle nesting areas were delineated and included in the criteria for applicant site

searches within the coastal zone. Additionally, staff attended interagency meetings and provided input and feedback on the PBR site developed within the Virginia Fish and Wildlife Information System.

## **NonGame Species Monitoring and Research:**

### *1. Delmarva fox squirrels*

One of the recovery objectives for the federally endangered Delmarva fox squirrel (*Sciurus niger cineris*; DFS) is to restore populations throughout its historic range, which includes Virginia's Eastern Shore. At present, Chincoteague National Wildlife Refuge harbors the only known self-sustaining DFS population in the state of Virginia. The translocation of DFSs on lands that currently do not support squirrels have proven to be a successful means of expanding and increasing DFS populations within the species' historic range. Many of the forests that may serve as suitable translocation sites Virginia's Eastern Shore are privately owned. In 2004, DGIF was awarded federal funding under the Private Landowner Incentive Program to develop and implement a Safe Harbor Program that would provide private landowners with legal assurances that they will not be held accountable if translocation efforts fail, and funding to conduct habitat management activities on their lands that would benefit future introductions of DFS. In 2007, DGIF entered into a contractual agreement with a locally owned environmental consulting firm (hereafter referred to as contractor) to assist with the project. Below is a summary of actions taken towards the establishment of a DFS safe harbor program on Virginia's Eastern Shore during this reporting period.

The majority of work completed this during this reporting period focused on the drafting of a Five Year Delmarva Fox Squirrel Management Plan for Area 1, which is located in northern Accomack County within 5 miles of two viable DFS in southern Maryland. Both landowners of Area 1 continue to show a reluctance to enter into a safe harbor agreement because of fears regarding possible restrictions that may be imposed by the Endangered Species Act. However, discussion have resumed with one of the property owners and strides have been made towards getting approval from Virginia's Attorney General's office on the draft safe harbor agreement package. We hope to have the general language of an Agreement finished and ready to present to the landowners during the next reporting period.

### *2. American Oystercatcher Winter Surveys*

DGIF and The Nature Conservancy's – Virginia Coast Reserve (VCR) continued to conduct an annual winter American Oystercatcher survey in late fall. Since 1999, the winter population estimates ranged between 1600 – 2500 oystercatchers, which represent approximately 15% - 23% at the Atlantic coast population. Our 2010 winter estimate was 2,024 individuals, which represents a 15% decline from last year's total of 2,381.

### *3. American Oystercatcher Resighting Surveys*

The U.S. Shorebird Plan (Brown et al. 2001) classified the Atlantic coast American Oystercatcher (*Haematopus palliatus palliatus*) to be a high priority, at-risk species. The American Oystercatcher Working Group (AOWG), a group of shorebird biologists, researchers, graduate students and managers from Massachusetts to Florida, came together several years ago to address the apparent decline in the oystercatcher

population. AOWG developed a list of research and monitoring objectives to determine seasonal movement patterns, distribution and survivorship. One of those objectives included marking adults and young with field-readable color bands throughout the species' Atlantic coast range and conducting post-breeding resighting surveys on high tide roosts from Virginia to Florida.

In 2003, The Nature Conservancy's – Virginia Coast Reserve (VCR) initiated an oystercatcher banding project in Virginia, which targeted primarily unfledged young (< 35 days old) that were captured by hand on breeding territories during the day. In the first year, VCR staff applied unique combinations of multiple, UV resistant single layer darvic plastic wrap around color bands on the right and left metatarsus and tibiotarsus along with a size 5 or size 6 BBL band on the right metatarsus. Soon afterwards, researchers throughout the species range discovered that oystercatchers were able to remove the single layer wrap-around bands which made it impossible to identify individuals with lost color bands. In 2004, the wrap around color bands were replaced with 15 mm high, color bands made of a triple-layer, UV-resistant darvic plastic. Each band is engraved twice with field-readable two-digit alpha-numeric codes and duplicated to form a set two of identically coded bands. Each bird receives two identical color bands, one on each tibiotarsus, and a BBL band on the right or left metatarsus. States were assigned a different color to help identify banding locations. Virginia's band color scheme is black with white engraved codes and the BBL band is applied on the right metatarsus. Since 2004, a total of 664 American Oystercatchers (643 hatch year birds and 21 adults) were banded in Virginia by VCR, DGIF, USFWS and John Weske, a private researcher.

In the fall of 2005, DGIF and VCR staff began conducting post-breeding resighting surveys of banded American Oystercatchers at all known high tide roost sites in the seaside lagoon system from Chincoteague Bay to Magothy Bay. Five water-based routes were established to ensure all sites were visited in a systematic fashion. We attempted to run each route every 12 – 14 days when high tide occurred between 0700 and 1300 hours. We used 10 x 42 binoculars and 32x – 60x spotting scopes to view birds from the boat, or when safe anchorage was possible, from land. After recording flock size, we carefully scanned the flock for banded birds. On most occasions, band readings were verified by two observers. In 2007, USFWS staff began assisting with re-sighting efforts, which enabled us to extent regular coverage to all routes and increase the number of routes to seven. The seven routes currently encompass 75 roost sites.

To date, a total of 604 (91% of Virginia's banded population) individuals banded in Virginia have been re-sighted at least once. During this reporting period, we resighted 247 individuals at least once of which 33% were four of age or older, indicating that a relatively high portion of fledged young survived to adulthood (oystercatchers reach maturity between 3 - 4 years of age).

A preliminary analyses of the resighting data conducted during this reporting period showed that annual resight probabilities (the probably of detecting a marked bird) are high ( $\geq 0.89$ ), a portion of Virginia's oystercatcher population is resident year round and

that year round residents exhibit high natal/breeding site fidelity. The data also indicate high survivorship among hatch year birds (0.70) and increases to >0.90 in subsequent age classes.

#### Literature Cited

Brown, S., C. Hickey, B. Harrington, and R. Gill, eds. 2001. The U.S. Shorebird Conservation Plan, 2<sup>nd</sup> ed. Manomet Center for Conservation Sciences, Manomet, MA.

#### *4. Endangered or Threatened Birds*

The department continues to maintain, improve, and expand activities related to endangered and threatened birds. Program activities are accomplished through education, research, monitoring, species management, and coordination with the private sector, NGOs, and other governmental agencies.

Numerous educational presentations concerning endangered and threatened birds were made to public schools, conservation agencies and the private sector. Topics ranged from Bald Eagle management, Peregrine Falcon restoration, passerines, and marsh birds. Further, this is the fifth year that we, in partnership with the Norfolk Botanical Gardens and the Center for Conservation Biology, have maintained a webcam/website at an active Bald Eagle nest. This webcam, offers real time video to a web-site, which has generated tremendous interest in Bald Eagles by the public. Moreover, we maintained a webcam for a breeding pair of Peregrine Falcons in Richmond for the fifth consecutive year as well. The nest-cam also offers real time video to a website, which has also spurred significant interest in falcon restoration.

DGIF held an October meeting with the Center for Conservation Biology at the College of William and Mary/Virginia Commonwealth University (CCB) to discuss the VA Peregrine Falcon Monitoring and Management Project. The two entities met to share information on the status of the VA Peregrine Falcon population and to identify a strategy for future mountain site falcon occupancy surveys and for hacking.

During the reporting period, DGIF made progress on drafting of a management plan for the newly acquired Big Woods WMA. The site abuts TNC's Piney Grove Preserve, which hosts the only known population of the federally and state-endangered Red-cockaded Woodpecker (RCW). Habitat management on Big Woods will focus on restoration of open pine savannah, which will ultimately contribute to supporting and potentially expanding the Piney Grove RCW population as well as benefiting the avian community that depends on this habitat type.

The department's Nongame Bird Interagency Coordinator continues to work toward integration of state-level goals and actions with the broader regional context through coordination with emerging and established regionally-based projects and initiatives. To this end, the Interagency Coordinator presented an assessment of the feasibility of regionally coordinated colonial waterbird monitoring at the annual Virginia Coast Avian Partnership meeting in February. The presentation included a summary of

colonial waterbird monitoring efforts in NJ, DE, MD and NC. Coordinated waterbird monitoring in the mid-Atlantic region and beyond has been a much-discussed objective among states in recent years; such monitoring would better assess the population trends and status of colonially-nesting species that are spatially dynamic and thus have the potential to shift across state boundaries between breeding seasons.

The Interagency Coordinator additionally hosted an interagency meeting in February to discuss implementation of the recently funded 'Conservation of Marsh Tidal Birds: Guiding Action at the Intersection of Our Changing Landscape' project. This project is funded through a competitive SWG and will be implemented in states across the NE beginning in 2011. In attendance were DGIF staffs, representatives from University of Delaware, CCB, Audubon MD-DC and the VA IBA Program. The group discussed design of a sampling scheme and logistics of conducting tidal salt marsh bird surveys in 2011 and 2012 in Virginia under the proposal.

The Interagency Coordinator is also an active member of the NE Grassland Bird Working Group, and during the reporting period has participated in discussions to establish a strategy for the delineation of grassland bird focal areas across the NE states. The focal areas would serve as the basis for establishment of a regionally coordinated grassland bird monitoring network, and as targets for directing grassland bird conservation resources. Discussions culminated in submission of a Regional Conservation Need proposal to fund delineation of the focal areas.

In an effort to catalogue and disseminate information on historical and current avian research and monitoring projects within the Commonwealth, the Interagency Coordinator created the Virginia Bird Survey Database in 2009. The Coordinator continues to populate the database with records, and in December met with staffs from Rappahannock NWR and Chincoteague NWR in December to solicit information on their past and present avian survey projects. The Coordinator is currently exploring options for the spatial display of the location of VA bird survey projects through online mapping applications.

##### *5. Bald Eagle Trapping*

We conducted Bald Eagle Trapping along Cat Point Creek, which borders the Rappahannock Valley National Wildlife Refuge. This project was a cooperative effort with USFWS staff at the Rappahannock Valley National Wildlife Refuge. The purpose of this project was four fold: 1) Explore shoreline use patterns of Bald Eagles along concentration areas, 2) document communal roosts, 3) explore lead and mercury levels in captured birds, 4) and educate the public about the national significance of the Chesapeake Bay Bald Eagle concentration areas. We outfitted 5 Bald Eagles with high resolution cellular/GPS transmitters that collect data at 15 minute intervals. During the winter of 2010 we captured 5 Bald Eagles from the following age classes: 1 fifth-year, 3 second year birds, and one young of year Bald Eagle. Currently 3 out of 5 birds are being tracked. Actively tracked birds are all currently in Virginia along tidal rivers. Loss of data transmission from two transmitters can most likely be attributed to grounding of a bird at Conowingo Dam in Maryland and battery failure of a bird being tracked along the

Rappahannock River. Currently data is being imported into a GIS and future publications will be produced from these data in the spring of 2011. Total number of locations among the 5 birds tracked is 56,129.

#### *6. Monitoring Bald Eagle Use on Cat Point Creek*

We continued our work on Cat Point Creek and will enter the last year of the 5-year project during 2011. Currently we are working on the fall 2010 report, which will be submitted to the Virginia Department of transportation on December 23, 2010.

#### *7. Bald Eagle Management*

We continued to provide technical assistance to federal and state agencies, the private sector, corporations, and NGOs concerning Bald Eagle management. The VDGIF continues to participate in the development of the Bald and Golden Eagle permit process and provides information and assistance to the Virginia USFWS Field Office.

#### *8. Vultures*

Virginia Game and Inland Fisheries and USDA Wildlife Services have continued to monitor the number of Black Vultures using Dutch Gap and nearby areas on a weekly basis. For our purposes, Dutch Gap includes the Dominion power plant, Chesterfield County Henricus Park and boat access, and areas of the James River immediately adjacent to the power plant. The purpose of the monitoring program is to determine the response of Black Vultures to hazing that was initiated to eliminate damage caused by vultures at Dutch Gap. Through discussions with the Center for Conservation Biology, monitoring efforts were expanded in December 2008 to include portions of the Rivers Bend Development because vultures began to congregate in that area after hazing was initiated at Dutch Gap. Monitoring efforts included counting the number of Black Vultures that were present at Dutch Gap and the Rivers Bend Development. In November 2007, project partners captured and tagged 100 Black Vultures with uniquely numbered wing tags. We tagged an additional 100 Black Vultures during the spring of 2010. When we monitor numbers of vultures at each site, we also search for tagged vultures to document movements of individual vultures over time.

Black Vultures appeared to rapidly respond to hazing by shifting their use of roost and loaf sites. Vultures stopped using all areas of Dutch Gap when the intensive hazing began in November 2007. Subsequently, complaints of vultures perching in trees and on houses at the Rivers Bend Development increased, and counts of vultures indicated that many Black Vultures shifted from Dutch Gap to the Rivers Bend area. This shift was also confirmed through movements of vultures that we tagged at Dutch Gap before hazing and then later observed at Rivers Bend (vulture numbers 118, 133, 138, 164, 165, 168, 173, and 196). Once hazing began at Rivers Bend on 7 Jan 2008, the number of Black vultures using Rivers Bend decreased and the number at Dutch Gap once again increased.

The presence of vultures at Dutch Gap appears to attract other Black Vultures to this location. The number of vultures that returned to Dutch Gap after hazing at Rivers Bend began was nearly double that of any counts at Rivers Bend. As Black Vultures returned to Dutch Gap, it appears that other vultures that were not counted during surveys at Rivers Bend also moved to Dutch Gap. In addition, six tagged vultures that were never

observed at Rivers Bend returned to Dutch Gap in January (vulture numbers 125, 132, 144, 192, CAV, and CEA). Also, 3 vultures, which moved away from Dutch Gap after hazing there, were never detected at Rivers Bend, but returned to Dutch Gap after vulture numbers increased (vulture numbers 128, 195, 200).

These patterns of vulture movements suggest that vultures responded to hazing at Dutch Gap by both shifting to the Rivers Bend area and by shifting to other, as of yet, unknown locations. It is important to understand that unknown locations could include other roosts that project partners or the general public have identified (e.g. Highland Springs, VA). It may also be possible that vultures moved predominantly to the Rivers Bend area but were not detected through the monitoring program; however, this seems unlikely given that the pattern emerges from 2 lines of evidence (count data and observations of tagged vultures observed outside of Rivers Bend).

Another objective of the monitoring program is to define the seasonal pattern of vulture use of Dutch Gap. Typically, damage associated with vultures begins in late summer and decreases by spring. Vulture numbers at Dutch Gap peaked at the end of October 2007 prior to tagging vultures and hazing at Dutch Gap. From November 2007 to mid-March 2008, vulture numbers at Dutch Gap appear to be fairly consistent except for the period of hazing and an increase in numbers in mid-February. Based upon observations by project partners and the pattern of damage complaints, vulture numbers at Dutch Gap are expected to decrease during spring and early summer. Continued monitoring will provide a better understanding of seasonal use patterns.

Based upon monitoring data, hazing appears to be an effective tool for shifting vultures away from specific areas to alleviate damage. The hazing programs at Dutch Gap and Rivers Bend rapidly shifted vultures away from each location. However, in each case, vultures moved to areas where they pose a damage risk. Vultures returning to Dutch Gap after Rivers Bend hazing predominantly used trees and transmission towers on the North Shore of the James River. Black Vultures have not been recorded in substantial numbers at the Dominion Power Plant but minor increases were recorded at the Boat Ramp and adjacent Rivers Edge. Incursions at the Boat Ramp and Rivers Edge were short lived, as vultures responded to presence of monitors by flying across the James River to the North Shore.

#### *9. Falconry*

We continue to maintain a close relationship with falconers to address issues related to capture and management of wild raptors for falconry purposes, and to the potential impacts of falconry on wild raptor populations. Further, we continue administer our falconry program through inspection of falconry facilities and administering falconry tests to apprentice falconers. Moreover, we spent significant time with the Virginia Falconers Association to develop a regulatory proposal that mirrors very closely the new Federal falconry regulations. The regulation proposal was adopted by the VDGIF board and will be implemented during 2011. The Falconry regulations allow greater flexibility for falconers to practice their sport.

#### *10. Atlantic Slope Freshwater Mussel Propagation*

The VA Department of Game & Inland Fisheries continued its cooperative Atlantic Slope freshwater mussel propagation facility with the U.S. Fish & Wildlife Services' Harrison Lake National Fish Hatchery in Charles City, which marks the 4<sup>th</sup> year of production and 5<sup>th</sup> year of operation at the VA Fisheries and Aquatic Wildlife Center (VFAWC). Propagation started in late February with the collection of approximately 60 gravid female mussels of seven species from the lower Nottoway River, Southampton County, and the upper North Fork Roanoke River, Montgomery County. Infestation of six batches of eastern pondmussel and four batches of notched rainbow were started in early March and with approximately 10,000 juveniles collected thru March. Target propagation goal for 2011 is 300,000 juvenile mussels with grow out and release of at least 10,000 mussels. While none of the species targeted for propagation in 2011 are listed as threatened or endangered, all are either listed as a species of greatest conservation need in Virginia's Wildlife Action Plan or as a species of concern by DGIF and/or the USFWS. In addition to propagation during 2011, approximately 4,000 subadult mussels propagated in 2009 and 2010 are being held for release in 2011.

#### *11. Eastern Shore Anabat Survey*

With the development of wind energy moving to coastal and off-shore areas VDGIF started a pilot project to look at bat activity along and just off the coast. Four Anabat detectors were placed on existing towers; two on barrier islands (Cedar and Hog Islands), one near the town of Oyster, and one at the Eastern Shore National Wildlife Refuge (ESNWR). The Oyster site had to be abandoned after one year due to vandalism. Technical difficulties with data storage cards and battery power created data gaps at each site. Figures 1 - 3 show bat passage rates over time for the detectors at Cedar Island, Hog Island, and the ESNWR. Data for 2010 is being compiled and analyzed. Species identification will be determined at a later date. An additional data logger will be placed on the bayside of the Eastern Shore starting in 2011.

Figure 1. Number of Bat Passes Per Night at Cedar Island, Virginia

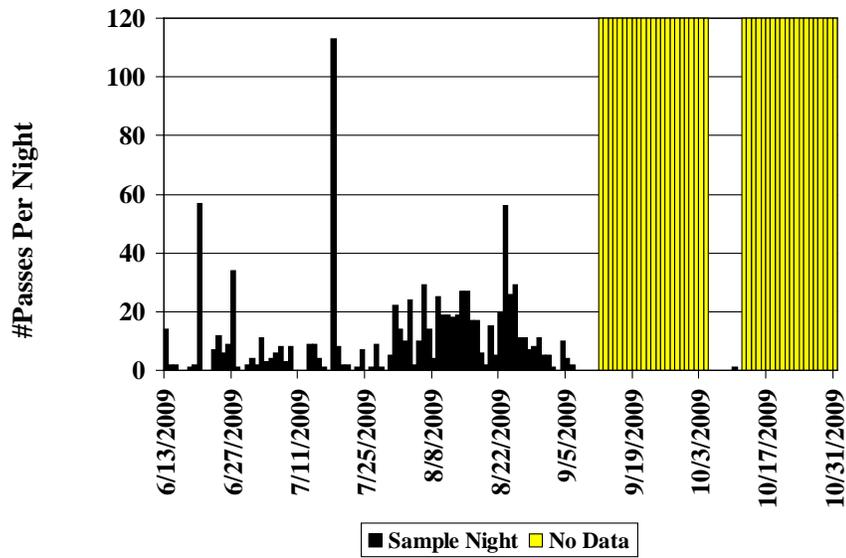
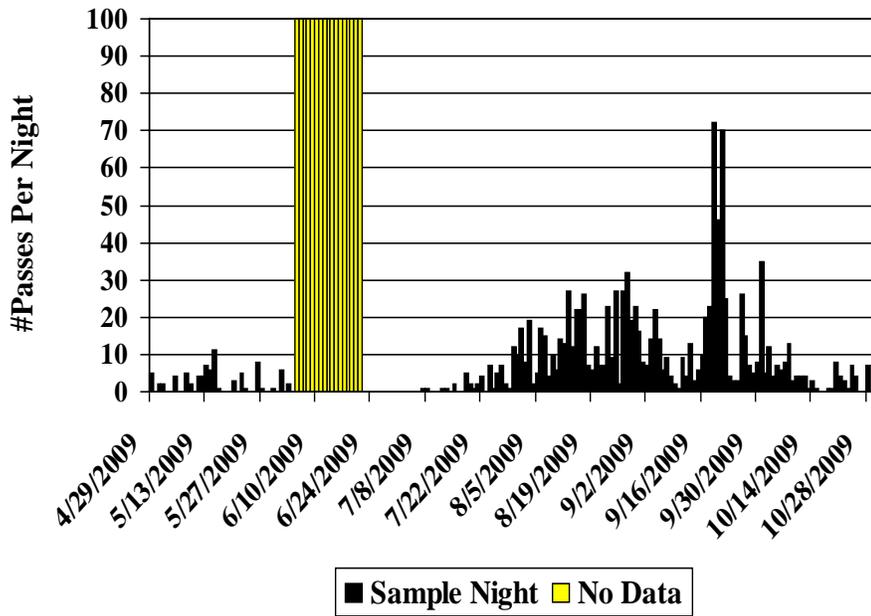
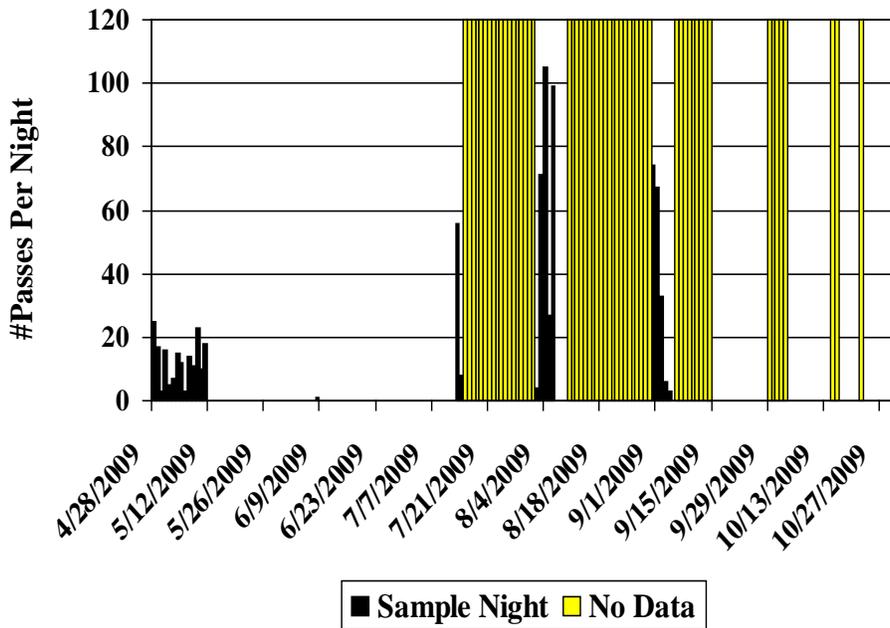


Figure 2. Number of Bat Passes Per Night at Hog Island, Virginia



**Figure 3. Number of Bat Passes Per Night at Eastern Shore National Wildlife Refuge, Virginia**



## B. FEDERAL CONSISTENCY

During the first half of FY 2010 (October 1, 2010 through March 31, 2011) the Office of Environmental Impact Review/Federal Consistency (OEIR) reviewed 66 development projects and management plans for consistency with the VCP. This represents 71% of the total amount of projects (93) reviewed during this period. Major state projects accounted for 10 projects, 41 were federal actions, and 15 were federally funded projects (predominantly local government projects). The 41 federal projects included 30 federal agency activities, 2 HUD mortgage insurance projects (submitted as a residual category pursuant to the federal consistency regulation 15 CFR 930.31(c)) and 9 federal licenses, approvals. All federal consistency determinations and federal consistency certifications were completed with the established legal deadlines.

The OEIR continues to maintain a website for Federal Consistency Reviews which can be accessed through DEQ's main webpage or found at <http://www.deq.virginia.gov/eir>. The webpage includes the Commonwealth's Federal Consistency information package, a project list with project descriptions, and links to the DEQ main webpage for public notices of Federal consistency reviews. The webpage is updated weekly.

Table 1 depicting federal projects in Tidewater, Virginia reviewed from October 1, 2010 through March 31, 2011.

<b>TYPE OF FEDERAL PROJECTS REVIEWED*</b>	<b>NUMBER OF PROJECTS COMPLETED</b>	<b>REVIEW PERIOD</b>
*Direct Federal Actions	32	30-60 Days
** Federal Activities (approvals & permits)	9	90 Days
***Federally Funded Projects	15	30 Days
Outer Continental Shelf	0	45-60 Days
<b>TOTAL</b>	<b>56</b>	<b>30-90 DAYS</b>

\*Includes 2 HUD Mortgage Insurances reviewed as FCD residual category of Subpart C of the Regulations.

\*\*These projects do not include permits issued pursuant to Section 404 of the Clean Water Act administered by the U.S. Army Corps of Engineers. Such permits are reviewed by the regulatory agencies under a separate interagency coordinated review process (coordinated by the Norfolk District U.S. Army Corps of Engineers).

\*\*\* These include federal assistance to local government reviewed under subpart F.

**SIGNIFICANT FEDERAL PROJECTS REVIEWED FOR CONSISTENCY WITH THE VCP from 10/1/2010 to 3/31/11**

**I. Federal Agency Projects**

*The following projects are examples of federal agency projects subject to Subpart C of 15 CFR 930.33(a)*

Clear Span Hangar, Apron, Auto Parking Lot and Access Road DEQ-OEIR completed the coordinated review of a federal consistency certification (FCC) submitted by the Middle Peninsula Regional Airport Authority for the construction of a 70-foot X 70-foot clear span hangar, 70-foot X 50.8-foot apron, 70-foot X 64.5-foot, 14-space automobile parking lot, and 810-foot X 24-foot paved access road (on an existing gravel roadway) at the airport in King and Queen County. The Department of Conservation and Recreation, Division of Chesapeake Bay Local Assistance initially found that there was insufficient information in the document to determine the project’s consistency with the coastal lands management enforceable policy of the Virginia Coastal Zone Management Program. DCR-DCBLA determined that the document does not include the required on-site delineation of Chesapeake Bay Preservation Areas in relation to the proposed project site, as provided under the *Chesapeake Bay Preservation Area Designation and Management Regulations*. In response, the Airport Authority provided additional information from the King and Queen County Office of Zoning Administration regarding absence of wetland and water features in the area and the county’s finding that “no environmental issues would occur in order to complete the project.” Based on the additional information, DCR-DCBLA modified its initial response and finds the proposal consistent with the *Bay Act* and *Regulations* provided the construction complies with the locally administered program.

Navy Installation of New Pilings and Floating Pier at Owl’s Creek Annex DEQ-OEIR completed a coordinated review of a federal consistency determination (FCD) submitted by the U.S. Department of the Navy. The FCD is for the installation of nine new pilings and one new floating pier at Owl’s Creek Annex in

Virginia Beach. The new pier will be adjacent to a current pier located within Lake Rudee and adjacent to Owl's Creek. The floating pier will be 10 feet wide by 80 feet long and perpendicular to the current concrete pier. The pier will be supported by wood pilings. This project will support training exercises of the Naval Special Warfare Group. The Navy has determined that the proposed project is consistent with the enforceable policies of the Virginia Coastal Zone Management Program (VCP). Based on the review of the FCD and the comments submitted by agencies administering the enforceable policies of the VCP, DEQ concurs that the proposed project is consistent with the VCP provided all applicable permits and approvals are obtained.

Permanent and Temporary Changes to Drawbridge Operating Schedules DEQ-OEIR completed the coordinated review of a national general consistency determination (NGCD) submitted by the Department of Homeland Security, U.S. Coast Guard (USCG) for the permanent and temporary changes to drawbridge operating schedules. The changes include the following regulatory activities: (1) permanent changes to the operating schedules of drawbridges pursuant to 33 CFR §117.8 through the process described in COMDTINST M16590.5 (series), Ch. 6; and (2) implementing deviations to drawbridge operating schedules on a temporary basis (180 days or less) pursuant to 33 CFR §117.35 and described in COMDTINST M16590.5c, Ch. 6.B.10. USCG determined that the changing of drawbridge operating schedules will not have any cumulative or secondary effect on coastal uses or resources within the coastal zones of the U.S. OEIR coordinated the review of the NGCD with the DEQ Tidewater Regional Office and the Virginia Marine Resources Commission. Neither agency indicated that the proposed action is inconsistent with the enforceable policies of the Virginia Coastal Zone Management Program (VCP) under their authority. Therefore, DEQ concurs that the proposal is consistent with the VCP.

Replacement and Operation of Central Plant Turbine Generators DEQ-OEIR completed the coordinated review of a draft Environmental Assessment (EA) for the replacement and operation of central plant turbine generators at the George Bush Center for Intelligence, Central Intelligence Agency (CIA), at Langley in Fairfax County. The CIA proposes to replace two of the central plant's existing seven low sulfur diesel turbine generators with three low sulfur diesel turbine generators and associated infrastructure. The additional turbine generator would be installed on a new concrete pad, approximately fourteen feet by fifty-five feet (770 square feet), adjacent to the existing turbine generators. Associated infrastructure would also include the installation of underground storage tanks under an existing parking lot for fuel to power the turbine generators. This would require the removal and replacement of 675 square feet of concrete. DEQ found that the proposal is unlikely to have significant environmental impacts provided the CIA obtains all applicable permits and approvals pertaining to erosion and sediment control, stormwater management, development in a Chesapeake Bay Preservation Area, air emissions, solid and hazardous waste management and cultural resource impacts.

Boat Ramp Maintenance Dredging at the Naval Support Facility Dahlgren DEQ-OEIR completed the coordinated review of a Federal Consistency Determination (FCD) submitted by the Department of the Navy (Navy) for the maintenance dredging of a boat ramp at the Naval Support Facility Dahlgren in King George County. Current sediment accumulation does not allow adequate access, and the ramp has become unsafe for loading and off-loading transport vehicles by LCM-8 landing craft. The initial dredging of approximately 100 cubic yards will be maintained over the course of the U.S. Army Corps of Engineers-issued Regional Permit (08-RP-19). Based on the coordinated review of the Navy's consistency determination and the comments submitted by agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), DEQ concurs that the proposal is consistent with the VCP provided all applicable permits and approvals are obtained with respect to erosion and sediment control, stormwater management, air emissions, impacts to lands analogous to Chesapeake Bay Preservation Areas, solid and hazardous waste management, and impacts to potential bald eagle nesting sites.

Shoreline Restoration and Infrastructure Protection Program at Wallops Island DEQ-OEIR completed a limited coordinated review of a final Programmatic Environmental Impact Statement (PEIS) submitted by the National

Aeronautics and Space Administration (NASA) for the restoration of the shoreline and infrastructure protection at the Wallops Flight Facility in Accomack County. The PEIS evaluates three alternatives. The preferred alternative (Alternative One) involves an initial construction phase with follow-on re-nourishment cycles. The Commonwealth previously responded to the draft PEIS submitted for this action on April 14, 2010 (reviewed under DEQ 10-019F). In that earlier review, several agencies indicated that the relocation of vulnerable infrastructure to the mainland is the best long-term solution to protect the infrastructure on Wallops Island. However, as relocation was not an alternative evaluated in the PEIS, the Commonwealth's reviewing agencies generally agreed that Alternative One will have the least impacts of the alternatives considered since it does not include the installation of a permeable groin. Comments submitted to the PEIS also included the finding that there are several Federal Facilities Restoration Program formerly used defense sites (FUDS) located along or immediately adjacent to the shoreline and/or the Wallops Island borrow site. Therefore, use of sand from the Wallops Island borrow site could adversely affect the FUDS sites, which are currently under investigation by the U.S. Army Corps of Engineers. The review of the final PEIS concludes that each alternative includes multiple mitigation measures to minimize environmental impacts, although impacts to the environment will, regardless, be significant. Monitoring project activities will be essential to validate project performance assumptions and to adapt the management strategies as needed over the life of the project.

AST System Rehabilitation DEQ-OEIR completed the coordinated review of a Federal Consistency Determination (FCD) submitted by the Department of Homeland Security (DHS), U.S. Coast Guard (USCG) for the rehabilitation of an aboveground storage tank (AST) fueling facility at the USCG Station Little Creek in the City of Virginia Beach. The rehabilitation will involve the demolition of existing gasoline and diesel fuel systems and the installation of new systems. The new systems will include: one new 1,000-gallon gasoline AST and concrete foundation; one new 4,000-gallon diesel fuel AST with concrete foundation; leak detection systems; dispensing pumps; spill and overflow protection; double-walled aboveground piping; secondary containment for the dispensers; and electrical distribution and control systems. Also, new double-walled aboveground piping will be installed from the gasoline and diesel fuel ASTs to the existing double-walled piping feeding the dispensers at the pier. Based on the coordinated review of the USCG's consistency determination and the comments submitted by agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), DEQ concurs that the proposal is consistent with the VCP provided all applicable permits and approvals are obtained with respect to erosion and sediment control, stormwater management, point source pollution control, air emissions, impacts to lands analogous to Chesapeake Bay Preservation Areas. The rehabilitation must also comply with requirements for solid and hazardous waste management, storage tank registration and possible project impacts to potential bald eagle nesting sites.

Construction of a New Controlled Industrial Facility and Demolition of Dry Docks 6 and 7 – DEQ-OEIR lifted the Commonwealth's objection to a Federal Consistency Determination (FCD) submitted by the Department of the Navy (Navy) for the construction of a new controlled industrial facility and the demolition of Dry Docks 6 and 7 at the Norfolk Naval Shipyard (NNSY) in the City of Norfolk. On June 3, 2010 the Commonwealth objected to the Navy's consistency determination under 15 CFR, Part 930, Subpart C, § 930.43(b). This objection was based on insufficient information pertaining to the subaqueous lands management enforceable policy administered by the Virginia Marine Resources Commission (VMRC). VMRC required that the Navy provide historical information regarding fill activities at the NNSY waterfront area in order to determine jurisdiction, as well as the submission of a Joint Permit Application (JPA). The Navy provided the historical information on November 9, 2010, but, did not act on the submission of a JPA, citing its long-standing practice to submit applications subsequent to completion of the National Environmental Policy Act process. VMRC agreed it will only exert jurisdiction over those portions of the project that extend beyond the bulkhead as it existed in 1953 after passage of the Submerged Lands Act. Based on VMRC's response and the comments submitted by agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), DEQ lifted the state's objection and concurs that the proposal is consistent with the VCP provided all applicable permits and approvals are obtained.

National Museum of the United States Army DEQ-OEIR completed the coordinated review of an Environmental Assessment (EA) and Federal Consistency Determination (FCD) submitted by the Department of the Army for the construction of the proposed National Museum of the United States Army at Fort Belvoir in Fairfax County. In October 2008 the Army submitted a draft EA which evaluated two sites called the Pence Gate site and Gunston site. The Commonwealth responded to the 2008 EA under DEQ 08-208F. In January 2010, the Pence Gate site became unavailable with the decision to construct a new Child Development Center there. Therefore, this current EA addresses a revised set of alternatives that could be implemented at the Gunston site. The EA also addresses the impacts of reconfiguring the existing North Post Golf Course to replace the golf course holes that would be adversely affected by construction of the NMUSA at the Gunston site. The Department of Conservation and Recreation (DCR) Division of Chesapeake Bay Local Assistance (DCBLA) expressed concerns with respect to the delineation of Resource Protection Areas (RPAs) on site and the impacts of a proposed driveway on the RPA. DEQ-OEIR facilitated additional coordination during the review period between the Army and DCR-DCBLA which resolved these issues. The DEQ response concluded that the proposal is unlikely to have significant effects on natural resources and programs administered by the Commonwealth provided activities are performed in accordance with the recommendations in the response. The proposed action was found consistent, to the maximum extent practicable, with the enforceable policies of the Virginia Coastal Zone Management Program.

Navy Federal Consistency Determination DEQ-OEIR completed a coordinated review of a federal consistency determination (FCD) submitted by the Navy. The Navy proposes to modify the Navy Morale, Welfare and Recreation (MWR) Marina Joint Expeditionary Base (JEB) Little Creek in Virginia Beach by replacing and modernizing existing infrastructure, including replacing the existing marina shop with a new building, and expanding the existing marina capacity. There will be no dredging with this activity. The Navy finds the project consistent with the enforceable policies of the Virginia Coastal Zone Management Program (VCP). Based on a review of the FCD and the comments submitted by agencies administering the enforceable policies of the VCP, DEQ conditionally concurs that the proposal is consistent with the VCP provided the construction of the building to replace the marina shop complies with all the applicable permits, approvals and conditions of the enforceable policies, including but not limited to the coastal lands management, subaqueous lands management, point source pollution control and wetlands management enforceable policies of the VCP. In accordance with the Federal Consistency Regulations at 15 CFR Part 930, section 930.4, this conditional concurrence is based on the Navy obtaining necessary authorizations prior to any ground disturbance. If the requirements are not met, this conditional concurrence becomes an objection under 15 CFR Part 930, section 940.43.

Wastewater Treatment Plant Replacement DEQ-OEIR completed the coordinated review of a Federal Consistency Determination (FCD) submitted by the Department of Homeland Security (DHS), U.S. Coast Guard (USCG) for the replacement of the existing wastewater treatment plant (WWTP) serving the USCG Station Milford Haven in Mathews County. Project activities will include demolition of the existing WWTP, associated lift station and sanitary collection lines. The replacement will be “in kind” at the site of the current WWTP and include the addition of an anoxic section and chemical feed system to enhance nitrification/ denitrification and phosphorus removal. The Department of Conservation and Recreation (DCR), Division of Chesapeake Bay Local Assistance (DCBLA) initially found the information provided in the FCD was insufficient to determine project consistency with the coastal lands management enforceable policy of the VCP, as there was insufficient information to determine whether the project meets the conditions that allow for the expansion of a legally nonconforming use in a Resource Protection Area (RPA). The federal consistency review period was extended by USCG and additional information was provided that satisfied DCR-DCBLA’s concerns. Based on DCR-DCBLA’s response and the comments submitted by agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), DEQ-OEIR concurs that the proposal is consistent with the VCP provided all applicable permits and approvals are obtained.

Construction of a New Controlled Industrial Facility and Demolition of Dry Docks 6 and 7 DEQ-OEIR lifted the Commonwealth's objection to a Federal Consistency Determination (FCD) submitted by the Department of the Navy (Navy) for the construction of a new controlled industrial facility and the demolition of Dry Docks 6 and 7 at the Norfolk Naval Shipyard (NNSY) in the City of Norfolk. On June 3, 2010 the Commonwealth objected to the Navy's consistency determination under 15 CFR, Part 930, Subpart C, § 930.43(b). This objection was based on insufficient information pertaining to the subaqueous lands management enforceable policy administered by the Virginia Marine Resources Commission (VMRC). VMRC required that the Navy provide historical information regarding fill activities at the NNSY waterfront area in order to determine jurisdiction, as well as the submission of a Joint Permit Application (JPA). The Navy provided the historical information on November 9, 2010, but, did not act on the submission of a JPA, citing its long-standing practice to submit applications subsequent to completion of the National Environmental Policy Act process. VMRC agreed it will only exert jurisdiction over those portions of the project that extend beyond the bulkhead as it existed in 1953 after passage of the Submerged Lands Act. Based on VMRC's response and the comments submitted by agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), DEQ lifted the state's objection and concurs that the proposal is consistent with the VCP provided all applicable permits and approvals are obtained.

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Navy Federal Consistency Determination DEQ-OEIR completed a coordinated review of a federal consistency determination (FCD) submitted by the Navy. The Navy proposes to modify the Navy Morale, Welfare and Recreation (MWR) Marina Joint Expeditionary Base (JEB) Little Creek in Virginia Beach by replacing and modernizing existing infrastructure, including replacing the existing marina shop with a new building, and expanding the existing marina capacity. There will be no dredging with this activity. The Navy finds the project consistent with the enforceable policies of the Virginia Coastal Zone Management Program (VCP). Based on a review of the FCD and the comments submitted by agencies administering the enforceable policies of the VCP, DEQ conditionally concurs that the proposal is consistent with the VCP provided the construction of the building to replace the marina shop complies with all the applicable permits, approvals and conditions of the enforceable policies, including but not limited to the coastal lands management, subaqueous lands management, point source pollution control and wetlands management enforceable policies of the VCP. In accordance with the Federal Consistency Regulations at 15 CFR Part 930, section 930.4, this conditional concurrence is based on the Navy obtaining necessary authorizations prior to any ground disturbance. If the requirements are not met, this conditional concurrence becomes an objection under 15 CFR Part 930, section 940.43.

Revision and Reissuance of Regional Permit 5 (RP-5) DEQ-OEIR is conducting a coordinated review of the Federal Consistency Determination (FCD) submitted by the Norfolk District Corps of Engineers (Corps) for the original revised draft RP-5. RP-5 authorizes the construction of small impoundments for uses such as general farm use, irrigation, livestock watering, fire prevention, and recreation in non-tidal waters of the U.S., including most non-tidal wetlands, provided they have only a minimal environmental impact. The Corps seeks the Commonwealth's concurrence that the proposed action is consistent to the maximum extent practicable with the enforceable policies of the Virginia Coastal Zone Management Program (VCP). The original deadline of January 31, 2011 for DEQ's response to the FCD has been extended due to the additional revisions by the Corps. The new deadline is April 27, 2011.

Mason Creek Canal Bulkhead Replacement DEQ-OEIR completed the coordinated review of a Federal Consistency Determination (FCD) submitted by the Department of the Navy (Navy) for the replacement the existing bulkhead on the Mason Creek Canal at Naval Station Norfolk in the City of Norfolk. Project activities include the replacement of approximately 1,400 linear feet of timber bulkhead and concrete cap with a cantilevered steel sheet pile bulkhead and concrete cap; installation of 1,430 cubic yards of backfill landward of the new bulkhead; removal and reinstallation of approximately 20 square feet of existing rip rap; and replacement of ten existing outfall drainage pipes. Petroleum- and lead-contaminated soil on the west side of the canal will be excavated and disposed. Upland area behind the new bulkhead will be backfilled, top soiled and seeded. Based on our coordinated review of the FCD and the comments submitted by agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), DEQ concurs that the proposal is consistent with the VCP provided that the Navy obtains and complies with all applicable permits and approvals. This includes, but is not limited to, authorizations under the following enforceable policies: nonpoint source pollution control; air pollution control; and coastal lands management. The Navy must submit a Water Quality Impact Assessment to DCR-DCBLA for review in accordance with the coastal lands management enforceable policy.

Nationwide Use of Active Sonar Technology DEQ-OEIR completed a coordinated review of a programmatic environmental assessment (PEA) which includes a federal consistency determination (FCD) submitted by the U.S. Coast Guard (USCG). The PEA and FCD are for the use of high frequency (HF) and ultra high frequency (UHF) active sonar technology in Virginia's coastal waters. Sonar technology would be used to locate, image and classify underwater targets of interest. Sonar forms and platforms would vary. Generally, the duration of sonar use would vary from minutes to as long as several days. The scope of the PEA focuses on potential impacts associated with the anticipated use of the sonar systems and addresses potential impacts on living marine resources. The sonar systems would operate in fresh, brackish and salt waters within all areas under USCG jurisdiction along the United States' continental coastline and inland operating areas. The FCD states that the project would be implemented in a manner consistent with the Virginia Coastal Zone Management Program (VCP). Based on reviewers' comments, DEQ concurs that the proposed action would be consistent with enforceable policies of the VCP provided all applicable State approvals are obtained prior to implementing this project in Virginia. DEQ will coordinate the review of future site-specific environmental documents for actions occurring off Virginia's coast. Reviewers recommend that the USCG continue to coordinate with the U.S. Fish and Wildlife Service and National Marine Fisheries Service to ensure that all sonar activities are performed in a manner consistent with the protection of marine species.

Family, Morale, Welfare and Recreation Travel Camp, Fort Belvoir DEQ-OEIR completed the coordinated review of an Environmental Assessment (EA) submitted by the Department of the Army (Army) for the construction of a family, morale, welfare and recreation travel camp (travel camp) at Fort Belvoir in Fairfax County. The Travel Camp would include: fifty-two recreational vehicle pads; tent pads; fifteen guest cabins; three campfire pits; three shelters; two playgrounds; a shower house with a laundry facility; central parking area; internal gravel paths; central water, sewer and other utilities; exterior lighting; landscaping; road improvements and a retail store. A Federal Consistency Determination (FCD) was included in the EA. The

Department of Conservation and Recreation, Division of Chesapeake Bay Local Assistance (DCR-DCBLA) concluded that the project cannot be found consistent with the coastal lands management enforceable policy of the Virginia Coastal Zone Management Program since the Resource Protection Area (RPA) was inaccurately depicted on the site and impacts to the RPA are proposed. The Army agreed to coordinate with DCR-DCBLA to address its concerns before the 60-day FCD deadline, which ends on February 18, 2011. In the meantime, DEQ responded to the EA to meet the 30-day legal deadline under the National Environmental Policy Act. Natural resource agencies made several recommendations to protect threatened and endangered species and their habitats, natural heritage resources, and environmentally sensitive areas such as Chesapeake Bay Preservation Areas

Mason Neck and Featherstone NWR. DEQ completed a coordinated review of a draft environmental assessment (EA) and comprehensive conservation plan submitted by the U.S. Fish and Wildlife Service (FWS) for the Elizabeth Hartwell Mason Neck National Wildlife Refuge (Mason Neck) and Featherstone National Wildlife Refuge (Featherstone). The refuges are located in Fairfax and Prince William counties, respectively. The document addresses the no action alternative, the service preferred alternative and other alternatives for each refuge. The preferred alternatives (Alternative B) for Mason Neck and Featherstone include constructing trails or rehabilitating existing trails, increasing safe public access (where appropriate), managing and protecting lands and resources, conducting educational outreach, and coordinating with public and private partners. Under the preferred alternative (Alternative B) for Mason Neck, FWS would pursue options for providing housing on-site and providing facilities for recreational vehicles. Under the preferred alternative (Alternative B) for Featherstone, the construction of proposed infrastructure (observation decks, fishing locations and parking areas) would be contingent on available funding. Reviewing agencies support the implementation of the preferred alternatives for the Mason Neck and Featherstone refuges. DEQ reiterates the need for FWS activities to be in compliance with the Coastal Zone Management Act of 1972, as amended.

York River Pier Repair Project DEQ-OEIR completed the coordinated review of a Negative Federal Consistency Determination submitted by the Department of Homeland Security (DHS) U.S. Coast Guard (USCG) for repairs to the York River Pier located at the USCG Training Center Yorktown in York County. Repairs will include the replacement of twenty-seven deteriorated fender piles, six deteriorated bearing piles, and various damaged and deteriorated support and decking timbers. The fender piles will be replaced by removing the existing piles and replacing them with the same sized piles in the same locations. The bearing piles will be cut off below the mud-line and replaced with the same sized pilings immediately adjacent to the cut-off piles. Based DEQ's coordinated review of the Negative Determination and the comments submitted by agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), DEQ concurs that the proposal is consistent with the VCP provided the USCG obtains all applicable permits and approvals with respect to air pollution control. Furthermore, the USCG must conduct the repairs in accordance with solid and hazardous waste regulations and in compliance with the National Historic Preservation Act.

Managing Waterfowl Damage in Virginia – DEQ completed the coordinated review of an Environmental Assessment and Federal Consistency Determination (FCD) submitted by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services (WS) for the management of waterfowl damage in Virginia. The EA evaluates three alternatives including the proposed action/no action alternative which would continue the current implementation of an adaptive integrated approach utilizing non-lethal and lethal techniques, as deemed appropriate. Non-lethal management methods include, but are not limited to: habitat/behavior modification; lure crops; visual deterrents; dogs; live traps; exclusionary devices; frightening devices; nest/egg destruction; chemical immobilization; and chemical repellents. Lethal methods include: live-capture followed by euthanasia; the recommendation of take during hunting seasons; and shooting. Based on DEQ's coordinated review this proposal is unlikely to have significant effects on ambient air quality, water quality, important farmland, forest resources, and wetlands. It is unlikely to adversely affect species of plants or

insects listed by state agencies as rare, threatened, or endangered. Furthermore, DEQ concurs with the WS's determination that the proposal is consistent to the maximum extent practicable with the enforceable policies of the Virginia Coastal Zone Management Program provided the WS obtains all applicable permits and approvals prior to the implementation of management measures.

Correction of Drainage Problems at USCG CAMSLANT DEQ-OEIR completed the coordinated review of a Federal Consistency Determination submitted by the U.S. Coast Guard (USCG) to correct drainage problems at the USCG Communication Area Master Station Atlantic Chesapeake transmitter site located at 1900 Indian River Road in the City of Virginia Beach. The work includes: clearing of 1.92 acres of vegetation within existing drainage ditches; grubbing and grading existing drainage ditches; removing 500 square yards of existing pavement and replacing it with 278 square yards of new pavement; removing and replacing existing culverts; installing temporary sediment tubes for erosion control; and establishing permanent turf. DEQ concurs with the USCG's determination that the proposal is consistent to the maximum extent practicable with the enforceable policies of the Virginia Coastal Zone Management Program provided the USCG obtains all applicable permits and approvals with respect to impacts to wetlands, erosion and sediment control, stormwater management, and air emissions.

Riprap Stabilization Structure, Craney Island Fuel Depot DEQ-OEIR completed a coordinated review of a federal consistency determination (FCD) submitted by the Department of the Navy. The Navy proposes to repair the existing riprap stabilization structure located between piers A and C at the Craney Island fuel depot in Portsmouth. The repairs are necessary to protect fuel lines and their supports. Approximately 180 linear feet of shoreline will be repaired in the intertidal and tidal areas between piers A and C. A revetment will be constructed from the toe of the slope of the existing fill to the limits of upland vegetation. In addition, any existing debris will be removed and replaced with rip rap and filter fabric. The Navy finds the project consistent with the enforceable policies of the Virginia Coastal Zone Management Program (VCP). Based on the review of the FCD and the comments submitted by agencies administering the enforceable policies of the VCP, DEQ concurs that the proposed project is consistent with the VCP provided all applicable permits and approvals are obtained.

Marine Corps Security Force Regiment Consolidation – DEQ-OEIR completed the coordinated review of a Federal Consistency Determination (FCD) submitted by the Department of the Navy (Navy) on behalf of the U.S. Marine Corps Security Force (MCSF) for the construction and operation of a consolidated security force operations complex at Naval Weapons Station Yorktown in York County. Four of five MCSF companies would be consolidated at the new operations complex. Existing buildings at the site would be renovated and nine new buildings with parking and driveways constructed. New construction would include: two marine bachelor enlisted quarters; mess hall; regimental and fleet anti-terrorism security team (FAST) supply building; armory building; motor transportation building; regimental headquarters; multipurpose building; and enlisted recreation center. Based on DEQ's review of the consistency determination and the comments submitted by agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), DEQ concurs that the proposal is consistent with the VCP provided all applicable permits and approvals are obtained with respect to potential impacts to wetlands, erosion and sediment control, stormwater management, air emissions, and development within lands analogous to Chesapeake Bay Preservation Areas.

## **II. Residual Category**

*The following consistency determinations were submitted as a residual category of Subpart C pursuant to the federal consistency regulation 15 CFR 930.31(c).*

Patrick Henry Place Apartments DEQ-OEIR completed the coordinated review of a federal consistency determination (FCD) submitted by the U.S. Department of Housing and Urban Development for the Patrick

Henry Place Apartments in the City of Newport News. HUD proposes to provide mortgage insurance under its Section 221(d)(4) program to Kahn Development Company for the construction of the apartments. The property consists of approximately 10.78 acres of cleared and graded land on both sides of Continental Parkway between Claire Lane and St. Johns Road. The land is part of an existing commercial/retail/residential development called Patrick Henry Place. Kahn Development intends to construct a five-building, 319-unit multi-family apartment complex at the site. Based on the coordinated review of the consistency determination and the comments submitted by agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), DEQ concurs that the proposal is consistent with the VCP. The following requirements apply: erosion and sediment control plan, stormwater management permit, sewage collection and treatment, air regulations, Chesapeake Bay Preservation Act and regulations, and solid and hazardous waste management. DGIF submitted recommendations to protect the state-listed endangered canebrake rattlesnake.

Riverview Lofts DEQ-OEIR completed the coordinated review of a Federal Consistency Determination (FCD) submitted for the rehabilitation of the former Krisp-Pak building into the proposed Riverview Lofts, a multi-family rental housing development located at 139 Riverview Avenue in the City of Norfolk. The U.S. Department of Housing and Urban Development (HUD) proposes to provide mortgage insurance under the HUD Section 221(d)(4) program to Prudential Huntoon Paige Associates, Ltd. for the rehabilitation. The rehabilitation will convert an existing three-story cold storage building. The proposed Riverview Lofts will contain 81 one-bedroom and two-bedroom units with 65,441 square feet in rentable area and 78,605 gross square feet. The addition of a swimming pool, driveways and landscaping is planned for the site. Based on DEQ-OEIR's coordinated review of the FCD and the comments submitted by agencies administering the enforceable policies of the VCP, DEQ concurs that the proposal is consistent with the VCP provided all applicable permits and approvals are obtained with respect to any potential wetland impacts, erosion and sediment control, stormwater management, air emissions, and impacts to Chesapeake Bay Intensely Developed Areas on site. The proposal must also be conducted in compliance with applicable solid and hazardous waste regulations and local floodplain management ordinances.

### **III. Federal Activities (Permits, Licenses and Approval)**

*These projects were reviewed pursuant to Subpart D of the Consistency Regulations (15 CFR §930.53)*

NAPS Unit 3 Combined License Federal Consistency Certification DEQ-OEIR is currently reviewing the federal consistency certification (FCC) for the Combined License (COL) to construct and operate Unit 3 the North Anna Power Station in Louisa County. On October 5, 2010, Dominion Virginia Power requested that DEQ-OEIR review a draft copy of the FCC. The proposed project requires the issuance of a COL from the Nuclear Regulatory Commission (NRC) for the construction and operation of the new unit. The project also requires the issuance of permits by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act and Section 10 Rivers and Harbors Act. DEQ-OEIR conducted an in-house completeness review of the draft FCC to determine whether the information and analysis presented in the document is sufficient to begin a coordinated review with the Commonwealth's resource agencies, applicable localities and planning district commissions. After its review, DEQ-OEIR contacted Dominion on October 6, 2010, and recommended that the completeness review also include state resource agencies input in order to ensure a more efficient review of the final document.

Accordingly, the Department of Environmental Quality, Department of Conservation and Recreation, Department of Game and Inland Fisheries, Marine Resources Commission and Department of Health participated in the sufficiency review. Overall, agency responses indicated that there is sufficient information in the document and attachments to conduct a review of the proposed project with respect to its impacts on the enforceable policies of the VCP. On November 22, 2011, Dominion submitted the final FCC and DEQ commenced the state's coordinated review. To satisfy CZMA requirements, a public notice was published in the Sunday editions of the Richmond Times-Dispatch and the Fredericksburg Free Lance-Star on January 30<sup>th</sup>

and February 20<sup>th</sup> and twice in The Central Virginian, a bi-weekly paper covering Louisa County and surrounding localities. In addition, DEQ held a public hearing on March 3, 2011 at Louisa County Middle School. An informal informational session preceded the hearing. The public comment period closed on March 18, 2011 and the six-month legal deadline for the FCC expires on May 20, 2011.

Captain John Smith Chesapeake National Historic Trail DEQ-OEIR completed the coordinated review of a draft Environmental Assessment (EA) and Federal Consistency Determination (FCD) submitted by the National Park Service for the Captain John Smith Chesapeake National Historic Trail Comprehensive Management Plan in Virginia. The purpose of the management plan is to provide a decision-making framework that ensures that management decisions effectively and efficiently carry out the NPS's responsibilities for the trail over the next 20 years. The management plan focuses on providing management direction in response to issues, including: visitor experience on the trail; identification and protection of trail-related resources; accurate and respectful representation of American Indian heritage; public access to the trail; trail partnerships; trail planning, development and management; and trail marking. The EA considers four alternatives for future management of the trail. DEQ-OEIR finds that the proposal is unlikely to have significant effects on ambient air quality, water quality, important farmland, forest resources, and wetlands. It is unlikely to adversely affect species of plants or insects listed by state agencies as rare, threatened, or endangered. Furthermore, based on DEQ-OEIR's review of the consistency certification and the comments submitted by the agencies administering the enforceable policies of the VCP, DEQ conditionally concurs that the proposal is consistent with the VCP. The condition of the concurrence is that the NPS submit site-specific supplemental information for the Commonwealth's review and approval for future activities implemented under the comprehensive management plan.

Lake Barton Dam Spillway Improvement DEQ-OEIR completed the coordinated review of a federal consistency certification (FCC) submitted by Fairfax County and the Natural Resources Conservation Service for the Lake Barton Dam spillway improvement project in Fairfax County. The auxiliary spillway requires rehabilitation to resist erosion when the spillway activates during large storm events and to contain flows within the spillway. The project will include the installation of two below-grade concrete cut-off walls, lengthening and raising the training dike, raising a low section of the dam crest; and raising the auxiliary spillway elevation. Based on DEQ-OEIR's review of the consistency certification and the comments submitted by the agencies administering the enforceable policies of the VCP, DEQ concurs that the proposal is consistent with the VCP provided Fairfax County obtains all permits and approvals with respect to subaqueous lands impacts, erosion and sediment control, stormwater management, air pollution control, Chesapeake Bay Preservation Area impacts, and solid and hazardous waste management.

Runway 10/28 Obstruction Removal at Hampton Roads Executive Airport DEQ-OEIR completed the coordinated review of the revised draft Supplemental Environmental Assessment (SEA) for the Runway 10/28 obstruction removal at Hampton Roads Executive Airport (HREA) located in the Cities of Chesapeake and Suffolk. HREA proposes to remove obstructions (trees) in areas located off airport property. The tree removal would involve the cutting or topping of encroaching trees, without grubbing, on 98.40 acres of land located outside of airport property. The majority of the areas planned for obstruction removal consist of palustrine, forested wetland communities that will result in the conversion of these communities to either a scrub-shrub or emergent wetlands. The Commonwealth previously responded to the 2009 draft SEA submitted for this action on January 27, 2010. HREA must continue to coordinate this proposal with the DEQ Tidewater Regional Office under the authority of the Virginia Water Protection Permit program, due to the wetland conversions that are anticipated as a result of tree removal. The HREA should coordinate with the Department of Game and Inland Fisheries with respect to potential project impacts to the state-listed endangered canebrake rattlesnake, and the Department of Forestry (DOF) regarding mitigation options to offset the proposed removal of trees. HREA published a public notice on October 10, 2010 in the Virginian Pilot announcing the availability of the revised draft SEA in accordance with NEPA. However, the public notice erroneously listed DEQ as the point of contact for the submission of written comments. The actual point of contact for public comment is the

Federal Aviation Administration (FAA). Accordingly, public comments received by DEQ in response to the public notice were forwarded to the FAA.

Runway 4-22 and Runway 15-33 Runway Safety Area Enhancements DEQ-OEIR completed the coordinated review of an Environmental Assessment (EA) and Federal Consistency Certification (FCC) submitted by the Metropolitan Washington Airports Administration (MWAA) for runway safety area (RSA) enhancements to Runways 4-22 and 15-23 at Ronald Reagan Washington National Airport in Arlington County. Proposed activities include extending Runway end; relocating the Runway 4 landing threshold; designating declared distances for takeoffs and landings on Runway 22; extending Taxiway B; installing an Engineered Material Arresting System (EMAS) at Runway 22; relocating Runway 22; constructing a new taxiway connector to the relocated Runway 22; shifting Runway 15-33; installing EMAS at the relocated Runway 15 and at the relocated Runway 33; constructing new taxiway connectors to the relocated runways; and place fill in the Potomac River to support the Runway 33 EMAS. Based on OEIR's coordinated review of the EA and FCC and the comments submitted by agencies administering the enforceable policies of the VCP, DEQ concurs that the proposal is consistent with the VCP provided that MWAA obtains and complies with all applicable permits and approvals of the pertinent enforceable policies of the VCP. This includes, but is not limited to, the subaqueous lands management enforceable policy, wetlands management enforceable policy, and air pollution control enforceable policy. In addition, MWAA must submit a Water Quality Impact Assessment to DCR-DCBLA for its review of the project's consistency with the coastal lands management enforceable policy.

Mid-Atlantic Connector Expansion Project DEQ-OEIR completed the coordinated review of Federal Consistency Certification (FCC) submitted by the Transcontinental Gas Pipe Line Company, LLC (Transco) for the expansion of its existing mid-Atlantic system in Virginia to enable it to make deliveries from an interconnection with East Tennessee Natural Gas in North Carolina to delivery points in Virginia and Maryland. The proposed mid-Atlantic connector expansion project consists of the following activities in Fairfax and Prince William Counties: construction of approximately 1.46 miles of new 42-inch-diameter pipeline loop and appurtenant facilities from Transco's Compressor Station 185 in Prince William County to milepost (MP) 1584.86 in Fairfax County; replacement of about 1.32 miles of Mainline B pipeline with the new Mainline D pipeline from MP 1584.86 to MP 1586.18 in Fairfax County; and relocation of a pig launcher in Fairfax County to Transco's existing Compressor Station 185 in Prince William County. Based on DEQ-OEIR's coordinated review of Transco's consistency certification and the comments submitted by agencies administering the enforceable policies of VCP, DEQ concurs that the proposal is consistent with the VCP provided all applicable permits and approvals are obtained for surface water and wetland impacts; surface water withdrawals; erosion and sediment control; stormwater management; impacts to Chesapeake Bay Preservation Areas; air emissions; solid and hazardous waste management; and wildlife impacts.

Metro Transit Police Department District II Substation and Training Facility DEQ-OEIR completed the coordinated review of a Federal Consistency Certification (FCC) submitted by the Washington Metropolitan Area Transit Authority (WMATA) for the construction of the Metro Transit Police Department District II Substation and Training Facility adjacent to the Franconia-Springfield Metrorail Station in Fairfax County. The proposed project includes the construction of a single-story training facility and a three-story administration/police station building. The facility will also include surface parking for up to 185 vehicles, a primary access road off of Joseph Alexander Road and an emergency entrance/exit off the Franconia Springfield Parkway. Based on DEQ's coordinated review of WMATA's consistency certification and the comments submitted by the agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), on behalf of the Commonwealth, DEQ conditionally concurs with the finding in the FCC that the proposal is consistent with the VCP. The Commonwealth's concurrence is conditioned upon WMATA obtaining all applicable permits and approvals of the enforceable policies of the VCP, including the submission of a site-specific delineation of the Resource Protection Area to Fairfax County for its review to determine project consistency with the coastal lands management enforceable policy of the VCP. If any of the

conditions are not met, the conditional concurrence becomes an objection under 15 CFR Part 930, section 940.43 of the federal consistency regulations.

Eisenhower Avenue Metro Station Improvements DEQ-OEIR completed the coordinated review of a Federal Consistency Certification (FCC) submitted by the Washington Metropolitan Area Transit Authority (WMATA) for the construction of a new entrance at the Eisenhower Avenue Station in the City of Alexandria. The proposed station entrance will connect to the existing station platform with walkway bridges above Eisenhower Avenue on the north side of the street and include a new station entrance with vertical circulation via an escalator stairs and elevator; pedestrian walkways; a connection across Eisenhower Avenue to the Metrorail platform; fare collection systems; station mezzanine; and service and ancillary rooms. DEQ concurs with the WMATA's consistency certification that the proposal is consistent with the enforceable policies of the Virginia Coastal Zone Management Program provided WMATA obtains all applicable permits and approvals with respect to erosion and sediment control, stormwater management, and air emissions. Furthermore, the improvements must be constructed in accordance with applicable waste management regulations and Section 106 of the National Historic Preservation Act.

Rocketts Landing Collegiate Regatta DEQ-OEIR completed the coordinated review of a Federal Consistency Certification (FCC) submitted by the Department of Homeland Security (DHS) U.S. Coast Guard (USCG) for the issuance of a CG-4423 Permit for a Marine Event to the Crew Club at Virginia Commonwealth University (VCU) for the Rocketts Landing Collegiate Regatta on the James River in the City of Richmond. The regatta will occur on April 23, 2011 between 8:00 am and 6:00 pm. There will be approximately 40 scull type boats participating in regatta. Crews will enter the James River from Rocketts Landing Boathouse, which has an established and approved dock. VCU intends to place 6-10 buoys to mark the start, finish, and regatta course. These buoys are established for a limited duration and not for general navigational use. On behalf of the Commonwealth, DEQ concurs with USCG's consistency certification since the activity will not result in any significant adverse impacts to the enforceable policies of the Virginia Coastal Zone Management Program.

Rocketts Landing Sprint Regatta DEQ-OEIR completed the coordinated review of a Federal Consistency Certification (FCC) submitted by the Department of Homeland Security (DHS) U.S. Coast Guard (USCG) for the issuance of a CG-4423 Permit for a Marine Event to the Crew Club at Virginia Commonwealth University (VCU) for the Rocketts Landing Sprint Regatta on the James River in the City of Richmond. The regatta will occur on June 25, 2011 between 9:00 am and 2:00 pm. There will be approximately 40 scull type boats participating in regatta. Crews will enter the James River from Rocketts Landing Boathouse, which has an established and approved dock. VCU intends to place 6-10 buoys to mark the start, finish, and regatta course. These buoys are established for a limited duration and not for general navigational use. On behalf of the Commonwealth, DEQ concurs with USCG's consistency certification since the activity will not result in significant adverse impacts to the enforceable policies of the Virginia Coastal Zone Management Program.

#### **IV. Federal Funds**

DEQ completed the review of fifteen local government projects submitted under 15 CFR, Part 930, Subpart F for federal financial assistance to local governments. Twelve projects involved federal financial assistance for the rehabilitation of single and multi-family affordable housing. Two projects involved improvements to community parks and one project involved the construction of improvements to a transit station (bus stop).

#### **V. OCS Reviews**

**No activity during this reporting period**

## C. PROGRAM CHANGES

The Virginia CZM Program contracted with the Environmental Law Institute (ELI) to address several program change issues, including an analysis of policies related to state-listed threatened and endangered species and identifying a clear list of its enforceable policies for federal consistency. Section 309 funds were used to support two grants to ELI. The first (FY 2009 Task 91.02) was to develop a more in-depth analysis of the program's original enforceable policies regarding wildlife and endangered species and to evaluate the ramifications of recodification of Title 29.1, Chapters 1, 3, 4 and 5 regarding Administration of Game, Inland Fisheries, and Boating. This task also included analyzing the changes that might occur in permit review procedures when the new laws are incorporated. ELI also conducted an inventory of existing approved enforceable policies under this task. Under a separate task contracted during the reporting period (FY 2010 Task 91), ELI began work with the Virginia CZM Program to identify and restate a clear list of its enforceable policies for federal consistency. This task is not scheduled for completion until March 2012.

## D. SECTION 312 EVALUATION PROGRESS

### 1. Coastal Policy Team

**PROGRAM SUGGESTION:** The Coastal Policy Team should establish a strategic planning effort for the team and the VCZMP. The strategic plan could also set annual objectives and some measurable goals or performance measure criteria to help gauge success.

**RESPONSE:** It seems we already have multiple strategic planning processes in place: 1) Every three years the Coastal Policy Team goes through a process (sometimes associated with our biennial Partners Workshop) to identify a new "focal area" for the small amount of funds (~\$350-500,000 per year) that we have available after our required continuing grants are covered; 2) Every five years the Coastal Policy Team engages in the Section 309 Coastal Needs Assessment & Strategy Development process – a strategic plan for prioritizing and developing new policies; 3) At almost every CPT meeting (2-3 times per year) the group discusses the next priority for incorporating new state laws or regulations into the Virginia CZM Program.

Given the limited resources we have, both in staff time and available dollars, it's not clear that sufficient benefit would derive from adding on yet another strategic planning process. We would like to discuss the need for this further with NOAA in the event that there is some aspect of strategic planning that we are neglecting but do or could have the resources to address.

### 2. Grants Management

**PROGRAM SUGGESTION:** Prior to development of the application for 2007 grant award funds, the VCZMP should consider ways to diversify match used for the CZMA cooperative agreement and to ensure mechanisms are in place to spend federal funds within the 18-month time frame of the award.

**RESPONSE:** While it is understandable that NOAA would like to see the CZM funds that DEQ retains for its own staff be matched task by task, it is not realistic to expect in this economic climate that the Commonwealth can afford to allocate new funds to the Virginia CZM Program. Like most states, Virginia has been through several rounds of state budget cuts and more are expected. State revenues have continued to decline. Fortunately, the WQIF funds that are used to match DEQ tasks have been maintained and the Commonwealth is actually spending millions more dollars on sewage treatment plant upgrades than are captured as match for our CZM awards. Also in light of Congress' failure to fund the Coastal Nonpoint Program for FY 2010, these

sewage treatment plant upgrades funded with matching dollars are one of the only water quality projects the Virginia CZM Program has.

### **3. Water Quality**

**PROGRAM SUGGESTION:** With the ‘devolution’ of local road planning, operations, and maintenance from the Virginia DOT to the local level, the VCZMP should consider using nonpoint program funding to support targeted assistance for the “Roads, Highways, and Bridges” nonpoint program management measures. The VCZMP and the nonpoint program manager should work to establish priorities for the nonpoint program and identify and develop for implementation some projects for whenever and whatever funding becomes available.

**RESPONSE:** Congress continues to fail to appropriate funding for the Coastal Non-Point program. In the event that funding for special initiatives for the water quality and non-point source program become available, the Virginia CZM Program will work closely with the Coastal Non-point Manager to identify opportunities for targeted assistance to local governments for the “Roads, Highways, and Bridges” nonpoint program management measures.” To date, Virginia CZM continues to use Section 309 and 306 funds to support the Coastal Networked Education for Municipal Officials (NEMO) program in Virginia. Through this support, Virginia CZM works with the Coastal Non-point Manager to prioritize non-point program activities and identify additional opportunities to expand and enhance the efforts of Coastal NEMO.

### **4. Coastal Hazards**

**PROGRAM SUGGESTION:** The VCZMP and its Commonwealth, regional, and local community partners should consider development of a coastal community resiliency initiative through existing partnerships and programs (e.g., SAMPS, directed technical assistance) as a further means to address coastal hazards. Existing research data and results and recent development of infrastructure (i.e., data layers and geospatial information) such as Coastal GEMS could be translated and disseminated through training programs and workshops for local government decision-makers as part of this effort.

**RESPONSE:** Virginia has used the concept of focal areas since 1999 in order to concentrate financial and policy efforts on a particular resource or geographic region for a three-year period. The current focal area, Sustainable Community Planning, was chosen after extensive input from partner agencies at the 2007 Coastal Partners Workshop and through discussions of the Coastal Policy Team. As a result, Virginia CZM resources, including staff time and grants, are being directed at state agencies and coastal planning district commissions to help coastal localities plan for adaptation to climate change and to protect blue and green infrastructure. Both of these topics, but especially climate change adaptation, address the NOAA suggestion for a community resiliency initiative. Coastal GEMS is an important component of this initiative, and a number of local government training sessions have been conducted by Virginia CZM staff (see Suggestion 6).

### **5. Federal Consistency**

**PROGRAM SUGGESTION:** The Coastal Policy Team should consider using federal consistency as a tool for identifying opportunities to review state policies or influencing new state policy based upon new situations presented in federal consistency determinations.

**RESPONSE:** In response to this suggestion, the Coastal Policy Team asked Virginia CZM staff to evaluate options for protecting endangered species through federal consistency. The Virginia CZM Program contracted with the Environmental Law Institute (ELI) to prepare routine program change submissions and then to address concerns raised about the expansion of authority regarding endangered species. This process is still underway.

ELI was also asked to inventory existing approved enforceable policies and will be working with the Virginia CZM Program to identify and restate a clear list of these policies for federal consistency. This task is scheduled for completion by March 2012. Through this process, the Coastal Policy Team will be able to comprehensively evaluate current enforceable policies and recommend future changes.

## **6. Public Participation and Outreach**

**PROGRAM SUGGESTION:** The Virginia Coastal Zone Management Program should evaluate the numerous educational and outreach markets it serves and consider a stronger focus on the local and coastal decision-makers. The planning district commissions, Sea Grant, the Chesapeake Bay-Virginia NERR Coastal Training Program, and the federal staff of the Chesapeake NEMO program could provide coordination and assistance.

**RESPONSE:** In early 2008, Virginia CZM released an improved version of Coastal GEMS. Since that time, numerous data layers have been developed and added to GEMS to make the system even more-user-friendly to planners and to make the connections between land and water resources more visible. For example, several data layers were synthesized to create a single, comprehensive Land Priority Conservation Areas (PCA) dataset which allows PDCs and local planners to use a single layer for comprehensive planning versus the multiple layers previously available. In FY 2010 the recently completed Estuarine Priority Conservation Areas layer has been incorporated into a synthesis map now called the Coastal Virginia Ecological Value Assessment (Coastal VEVA) – giving localities and state agencies a single layer depicting all known blue and green infrastructure within Virginia’s coastal zone. This FY 2010 grant is also focusing on training for elected officials and local planning staff on the value and use of this new data layer. The NEMO Coordinator as well as staff from DCR, DGIF VCU and VIMS are all involved in this effort.

Virginia CZM’s “focal area” during the fiscal years 2008 -2010 is “Sustainable Communities: Protecting Blue-Green Infrastructure and Adapting to Climate Change.” Representatives from each of Virginia’s eight coastal planning district commissions helped refine this “focal area” during the 2007 Coastal Partners Workshop where the need for more education for local planners and decision-makers was identified as a high priority. Community planning occurs at the local government level and “focal area” grants to the coastal PDCs will continue to be the most effective and efficient means for the Virginia CZM Program to provide education and training to local planners and officials. The PDCs are coordinating with Virginia NEMO and a grant to Virginia NEMO at the Department of Conservation and Recreation is helping to provide direct technical assistance to those localities requesting it. The focal area projects should result in better-informed local planning staff and decision-makers and better protection and management of important coastal resources through adoption of local plans and ordinances.

Since Virginia’s coastal planning district commissions are in an excellent position to provide local planners and officials regularly scheduled training on coastal resource management issues through their quarterly meetings, Virginia CZM has asked each coastal PDC to provide four training opportunities each year as a deliverable of their technical assistance funding. These trainings, on topics related to Virginia CZM goals and initiatives, have been ongoing for the last few years and are generally well attended across the eight coastal PDCs.

Virginia CZM staff has taken advantage of several opportunities to improve coordination with our NOAA “sister” programs, CBNERRS and Sea Grant. Virginia CZM staff participate in Virginia Sea Grant strategic planning sessions and evaluations and Virginia CZM and CBNERRS staff occasionally hold “collaboration meetings.” The Director of Virginia Sea Grant and Manager of CBNERRS are members of the Coastal Policy Team and Virginia CZM staff serve on the CBNERRS Coastal Training Steering Committee. These are all important venues for identifying common goals, priorities and programs. Virginia CZM included both Sea Grant and CBNERRS staff in the 2010 Virginia Coastal Partners Workshop.